

**RESPONSE TO PUBLIC COMMENTS
GUNNISON WIND RIVER/TOP STOP
FACILITY IDENTIFICATION NUMBER 2000220
RELEASE SITE MHB
September 3, 2008**

Introduction

Wind River Petroleum ("Wind River") submitted a Corrective Action Plan ("CAP") Summary letter on April 11, 2008, for Release Site MHB, Facility Identification Number 2000220, located at 15 South Main Street, Gunnison, Utah. Consistent with Utah Admin. Code R311-202-1, incorporating 40 CFR § 280.67(a), the Division of Environmental Response and Remediation ("DERR") directed Wind River to provide notice of the proposed corrective action to the public with an opportunity to comment. The 30-day comment period began on May 19, 2008, and ended on June 19, 2008. The Executive Secretary (UST) of the Utah Solid and Hazardous Waste Control Board ("Executive Secretary") and the DERR (hereinafter collectively referred to as the "DERR") appreciate the thoughtful comments submitted regarding the proposed corrective action. Based on comments received during the public comment period and evaluation of the CAP Summary Letter, the DERR has required Wind River/Top Stop to modify its final CAP via a "Final Corrective Action Plan (CAP) and Technical Specification Requirements" letter dated July 21, 2008 ("CAP Requirements Letter" attached hereto as Exhibit A). The CAP Requirements Letter responds to many concerns and issues raised during the public comment period.

Below are the DERR's responses to the public comments received, based on the date each comment was received.

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Response to Bud Peacock Comment received June 2, 2008:

1. The DERR requires Wind River to address site restoration issues in Paragraph 1 of the CAP Requirements Letter. Replacing the fence at Bud Peacock's property is specifically identified as a "punch list" item to be addressed in Paragraph 1(A) of the letter. Paragraph 2(A) also requires Wind River to inspect trenching throughout the release site for settling and repair as necessary.

Response to Clair Nielson Comment dated and received June 8, 2008:

The DERR recognizes the impact of this release on the residents and businesses of Gunnison and reiterates an ongoing commitment to insuring that the contamination is addressed in a manner consistent with State and Federal laws.

1. Section I of these comments identifies issues related to Aesthetic Site Restoration. Paragraph 1 of the CAP Requirements Letter specifically identifies and requires Wind River to address these restoration issues for both private and public properties. Some contaminated soil was removed during tank removal and the remainder of the soil will be treated using Soil Vapor Extraction ("SVE") as outlined in the CAP Summary Letter.
2. Section II of these comments identifies concerns related to confirmation of the coverage provided by the remediation systems, as well as progress of the cleanup and property values.
 - a. Paragraph 4(A) requires Wind River to detail a plan to verify remediation system coverage. The progress of the cleanup will be monitored through collection of air and groundwater samples. Sampling must demonstrate that soil, groundwater, and air meet DERR Cleanup Standards before Wind River is allowed to cease corrective action.
 - b. Section II also expresses concern that property values should be "restored to the level prior to being contaminated by the gasoline spill." The DERR has authority to enforce the Utah Underground Storage Tank Act, Utah Code Ann. § 19-6-401 et seq., and the regulations promulgated thereunder, and will require that the soil and groundwater be remediated to DERR Cleanup Standards. The DERR does not have the authority or the mechanisms to restore property values. This is a damage claim that must be addressed through other procedures.
3. Section III addresses reimbursement of costs incurred due to the release and issuance of "No Further Action" letters to property owners.
 - a. There are no provisions in the statute or regulations providing for a per diem for people displaced from their homes. Utah Code Ann. 19-6-402(8)(g) provides that the CAP may include provisions for temporary or permanent relocation of persons

whose dwellings have been determined by the DERR to be no longer habitable due to the release. Paragraph 7 of the CAP Requirements Letter requires Wind River to address one residence that may no longer be habitable due to the petroleum release. If the DERR becomes aware of information indicating that temporary or permanent housing is necessary because other homes are not habitable, Wind River will be required to supplement its CAP to provide temporary or permanent housing. Past housing costs and other costs related to damages caused by the petroleum release are damage claims that must be addressed directly to Wind River. The DERR has no authority to award damages.

- b. The DERR has required Wind River to continue indoor air monitoring and to propose a plan to establish indoor air quality standards in Paragraph 2 of the CAP Requirements Letter.
- 4. Sections IV, V, and VI identify specific damage compensation claims that need to be addressed directly to Wind River.

Response to Lance Hess Comment dated and received June 16, 2008:

- 1. The maps submitted by Wind River were drawn using available soil vapor data. Even though soil vapor was not observed in the borings near the middle of the block on 100 South, Wind River will need to demonstrate remediation system coverage for this area because vapors were detected in the homes along the south side of 100 South Street.
- 2. Paragraph 6 of the CAP Requirements Letter requires Wind River to propose a plan to evaluate the effect of the petroleum release on utilities and monitor utilities for impacts.
- 3. Paragraph 9 of the CAP Requirements Letter requires Wind River to evaluate what you identified as "Burning Eye Syndrome."
- 4. Corrective action at the petroleum release site will be required until DERR Cleanup Standards are met. If it is determined in the future that the current and proposed remediation is no longer effective at addressing soil and groundwater contamination, additional corrective action will be required. At that time, the DERR may require a groundwater remediation plan, if necessary.
- 5. Paragraph 4(D) of the CAP Requirements Letter requires preparation of an operation and maintenance plan for all remediation systems. This plan may include pulsing of the systems which will be determined on actual site conditions. Indoor air monitoring is required by Paragraph 2 of the CAP Requirements Letter.
- 6. Paragraph 4 of the CAP Requirements Letter requires a plan to evaluate remediation system coverage.

7. Paragraph 3 of the CAP Requirements Letter requires the installation of additional drilled monitoring wells and collection of soil samples.
8. Utah Admin. Code R311-211-6(d) identifies the criteria for use of the Tier 1 screening levels. In this case, the only location that meets the requirements outlined is the Top Stop property itself. The DERR considers “on-site” to mean the property from which the release occurred. Any other property is considered to be “off-site.” The DERR considers total petroleum hydrocarbons fractionation to be a tool for evaluating any release site for closure, and it may be used to evaluate this release site.
9. Paragraph 4 of the CAP Requirements Letter requires a plan to evaluate remediation system coverage.
10. Paragraph 5 of the CAP Requirements Letter addresses Wind River obtaining permits required by the Division of Air Quality (“DAQ”). The concerns raised here have been forwarded to the DAQ for consideration during their review.
11. Paragraph 2(A) requires implementation of the air sampling plan. The plan submitted by Wind River will be reviewed to insure all properties identified in the comments are included prior to approval.
12. Paragraph 8 of the CAP Requirements Letter specifically requires Wind River to prepare and submit a detailed plan to mitigate vapors in the Casino Star Theatre.
13. Paragraph 4(C) requires Wind River to report contaminant mass recovery accounting for all sources of mass removal.
14. Paragraph 7 of the CAP Requirements Letter addresses the residence at 255 South 100 West.
15. Paragraph 1 of the CAP Requirements Letter requires restoration of property damaged during investigation and remediation construction activities.
16. Prior to issuing a “No Further Action” letter, the DERR will require a confirmation sampling plan for soil, groundwater, and air. This plan will be proposed after sampling indicates that the cleanup process is nearing completion.
17. Paragraph 5(A) of the CAP Requirements Letter requires Wind River to work with Gunnison City to obtain the required local permits.
18. There are no provisions in the statute or regulations providing for a per diem for people displaced from their homes. Utah Code Ann. 19-6-402(8)(g) provides that the CAP may include provisions for temporary or permanent relocation of persons whose dwellings have been determined by the DERR to be no longer habitable due to the release. Paragraph 7 of the CAP Requirements Letter requires Wind River to address one residence that may no longer be habitable due to the petroleum release. If the DERR

becomes aware of information indicating that temporary or permanent housing is necessary because other homes are not habitable, Wind River will be required to supplement its CAP to provide temporary or permanent housing. Past housing costs and other costs related to damages caused by the petroleum release are damage claims that must be addressed directly to Wind River. The DERR has no authority to award damages.

19. A history of when the SVE systems came online was included in Wind River's CAP Summary Letter. Paragraph 4 of the CAP Requirements Letter requires a plan to evaluate remediation system coverage.

Response to Kim Picket Comment received June 17, 2008:

1. Paragraph 1(A) of the CAP Requirements Letter requires that Wind River repair your landscaping, and Paragraph 4(B) requires that they either pay for power to operate the sub-slab ventilation systems or obtain a separate power drop.

Response to Kim Robinson Comment received June 18, 2008:

1. Paragraph 1(C) of the CAP Requirements Letter requires Wind River to comply with local ordinances regarding upkeep of the Top Stop property.

Response to Jared Inouye's Comment dated and received June 18, 2008:

1. 40 CFR § 280.66, incorporated by reference in Utah Admin. Code R311-202-1, provides that the "implementing agency may require owners and operators to... develop and submit a corrective action plan..." at any time after the implementing agency reviews information submitted under 40 CFR § 280.61-280.63. Section 280.61 requires owners/operators to report a petroleum release and prevent further release into the environment—steps Wind River took upon discovering the release, and then pumping fuel from and removing the tanks. Sections 280.62 and 280.63 involve submission of a report detailing initial abatement measures and initial site characterization. The DERR determined those requirements were adequately met with the "Emergency Response and Vapor Abatement Report," and the "Additional Emergency Response and Subsurface Investigation Report" submitted by Wind River. The DERR then requested a Subsurface Investigation Report ("SIR") pursuant to 40 CFR § 280.65, and received a SIR dated February 12, 2008. There is no requirement that the full extent and location of contaminated soils and groundwater be delineated before the implementing agency can request a CAP. The DERR has determined that moving onto corrective action is expedient at this time and will be most helpful to the people affected by the petroleum

release. However, the investigation process throughout the petroleum release area is ongoing. Air, soil, and groundwater monitoring will continue to be conducted as outlined in the CAP to monitor the progress of the cleanup. Paragraphs 2 and 3 of the CAP Requirements Letter also outlines additional requirements for sampling air, groundwater, and soil. Soil will also be sampled to confirm the progress of the cleanup. Prior to issuing a “No Further Action” letter, the DERR will require a confirmation sampling plan for soil, groundwater, and air. This plan will be proposed after sampling indicates that the cleanup process is nearing completion.

- 1.1. A Photoionization Detector (“PID”) is a common screening tool, which is very useful for assessing the location of contamination where vapor is the major exposure pathway, as is the case with the Wind River Gunnison release. Based on the results of PID readings, additional sampling of soil, groundwater, and air has been conducted and is ongoing.
- 1.2. As stated above, additional groundwater samples will be required throughout the remediation process, and confirmation samples will be taken prior to the release being closed.
- 1.3. As stated above, Wind River has been required to perform additional sampling, and sampling will be performed throughout the remediation process. The “Leaking Underground Storage Tank Subsurface Investigation Report Guide” is a guidance document intended to help responsible parties prepare an adequate SIR. Regarding your individual concerns: (a) Wind River provided an initial groundwater gradient map based on preliminary data in its February 12, 2008, report. An updated map was submitted in Wind River’s monthly report received July 30, 2008. Wind River is installing additional groundwater monitoring wells that will provide additional data; (b) When the SIR was submitted, two rounds of groundwater monitoring sampling had been performed and Table 1 of that report summarized the data. As future rounds of sampling are performed, cumulative data will be required; and, (c) The DERR does not require site maps showing chemical concentrations. Instead the DERR requires comprehensive data tables. Wind River has provided maps showing well locations and tables of sampling results.
- 1.4. The Wind River Gunnison release is atypical, both because of the volume of product released and the unique geology of the area, which lead to vapors impacting a large number of buildings relatively quickly. In this situation, the communication of citizens regarding vapors was critical in determining which buildings had been impacted. Wind River has developed an indoor air monitoring plan and will be required to implement it once it has been approved, as required in Paragraph 2 of the CAP Requirements Letter.
- 1.5. Free product may be removed through a variety of methods, including vapor extraction. Wind River has proposed vapor extraction as a technically feasible alternative for removing free product at this release site. Wind River initially

reported the mass removal of free product achieved through vapor extraction in its SIR dated February 8, 2008. Wind River updates contaminant mass removal estimates monthly. As of the July monthly report, Wind River estimated that vapor extraction has removed over 11,000 gallons of free product. Future contaminant mass removal reports will be required throughout the remediation process, as referenced in Paragraph 4(C) of the CAP Requirements Letter.

- 1.6. As stated above, the “Leaking Underground Storage Tank Subsurface Investigation Report Guide,” prepared by DERR staff, is a very useful guidance document to assist consultants and owners/operators in preparing a SIR. If the DERR determines there are data gaps in the investigation, Wind River will be required to perform additional investigation and submit additional reports. The DERR has already required Wind River to perform additional investigation in Paragraphs 2 and 3 of the CAP Requirements Letter.
2. The DERR considers “on-site” to mean the property from which the release occurred. Any other property is considered to be “off-site.” The two terms are collectively the “release site.” The term “groundwater plume” refers to the portion of the groundwater contaminated by petroleum. As stated above in sub-paragraph 1.6, investigation regarding the contaminant plume is on-going.
3. The primary purpose of vapor extraction is volatilization and removal of petroleum contamination, including free product. If it is determined that groundwater is not remediated by vapor extraction, the DERR will require implementation of other technologies such as air sparging or dewatering to clean up groundwater contamination.
4. Paragraph 4 of the CAP Requirements Letter requires Wind River to provide a detailed plan for verifying remediation system coverage. In every CAP, some degree of uncertainty exists relative to remediation system coverage. The DERR expects the responsible party to verify remediation system coverage through monitoring and evaluate the progress of cleanup. In the event that coverage is inadequate, Wind River may be required to install additional vapor extraction wells or trenches.
5. Indoor Air Sampling:
 - 5.1. There is no requirement in the Underground Storage Tank Act or regulations that a person taking air samples must be certified. Similarly, there is no requirement that a CAP must be signed by an industrial hygienist, only that the responsible party utilize a certified consultant. However, Wind River has contracted with an industrial hygienist certified by the American Board of Industrial Hygiene (Frank DeRosso, CP 4025).
 - 5.2. Please see sub-paragraph 1.4, above.
 - 5.3. To date, no positive air pressure systems have been installed. Sub-slab ventilation units have been installed on some buildings, and Paragraph 4 of the CAP

Requirements Letter requires Wind River to submit a map identifying which structures have these units.

- 5.4. The ability of the sub-slab ventilation units to prevent migration of vapors into buildings is measured through the collection of indoor air samples. As stated above in sub-paragraph 1.4, Wind River will be required to conduct indoor air sampling and submit reports.
6. As referenced in sub-paragraph 1.4, above, Wind River submitted an indoor air sampling plan that is currently under review. In accordance with Paragraph 2 of the CAP Requirements Letter, Wind River will be required to implement this air sampling plan independent of the CAP upon approval from the DERR.
7. The DERR has required Wind River to continue indoor air monitoring and to propose a plan to establish indoor air quality standards in Paragraph 2 of the CAP Requirements Letter. The DERR will establish site specific indoor air standards in accordance with Utah Admin. Code R311-211-5. Paragraph 5(B) of the CAP Requirements Letter requires Wind River to obtain Air Quality permits.
8. Paragraph 6 of the CAP Requirements Letter requires Wind River to propose a plan to evaluate the effect of the petroleum release on utilities and monitor utilities for impacts.
9. Wind River has proposed vapor extraction as a means for removing free product. Please see sub-paragraph 1.5, above.

Response to Carissa Kuhni Comment received June 18, 2008:

1. Contamination will be removed from the soil using SVE.
2. Paragraph 1(A)(iii)(e) of the CAP Requirements Letter requires Wind River to address noise reduction for the Thermal Oxidizer system on your property.
3. Paragraph 1(A)(iii)(a) of the CAP Requirements Letter requires Wind River to remove construction debris from your property.
4. Paragraph 1(A)(iii)(b) of the CAP Requirements Letter requires Wind River to install a fence between your yard and the remediation equipment and access area.
5. Paragraph 1(A)(iii)(c) of the CAP Requirements Letter requires Wind River to repair damage done to the sprinkling system and irrigation water systems during investigation and remediation of the release.
6. Paragraph 1(A)(iii)(d) of the CAP Requirements Letter requires Wind River to remove the port-a-potty from your property

7. See Paragraph 2, above.
8. Paragraph 1(A)(iii)(f) of the CAP Requirements Letter requires Wind River to control weeds at the Thermal Oxidizer compound and access area.
9. Air and groundwater monitoring will be conducted as outlined in the CAP to monitor the progress of the cleanup. Soil will also be sampled to confirm the progress of the cleanup. Confirmation soil samples will be required prior to the release being closed out.

Response to Joel White and Jill White Comment received June 18, 2008 (received in three e-mails):

The first e-mail was received 2:05 pm. Responses to the issues raised in this first e-mail address the issues raised in the second e-mail, received at 5:58 pm.

1. Paragraph 4(B) of the CAP Requirements Letter requires that Wind River either pay for power to operate the sub-slab ventilation systems or obtain a separate power drop.
2. Paragraph 2 of the CAP Requirements Letter requires Wind River to proceed with implementation of its air monitoring plan immediately upon approval.
3. The DERR is committed to insuring that the contamination is addressed in a manner consistent with State and Federal laws.
4. This comment appears to be directed to Wind River.
5. The DERR has followed procedures established to insure compliance with State and Federal laws. As a regulatory agency, the DERR must be consistent in its oversight of investigation and cleanup, and will continue to require that Wind River comply with its obligation to clean up the gasoline contamination resulting from this spill.
6. The Petroleum Storage Tank ("PST") Fund is funded by annual assessments applied to participating Underground Storage Tanks ("USTs") and an environmental assurance fee of one half cent per gallon on petroleum delivered to these tanks. The purpose of the PST Fund is to reimburse owners and operators who choose to participate in the program for expenses related to the investigation and cleanup of petroleum releases. In this case, the coverage amount was \$1,000,000.00. Wind River has already exhausted the full coverage amount from the PST Fund for this release. Much of the PST Fund money was used during the major investigation and remediation system installation work. Wind River will not be required to pay that money back, since the PST Fund was used for its intended purpose in this case. However, Wind River is financially responsible for operation and maintenance of the remediation systems, as well as any other investigation and/or remediation required by the DERR. Any additional infrastructure required to

7. This comment appears to be directed to Wind River.
8. The DERR has made efforts to insure that information is disseminated to the City Council and has attended every meeting where the gasoline spill was on the agenda. The DERR remains committed to insuring the cleanup continues.
9. The only relationship between the DERR and Wind River is that of regulator and a member of the regulated community. The DERR will continue to monitor and regulate Wind River, and any other UST owner/operator, according to State and Federal laws.

Response to RaDene and Hal Pickett Comment (received in two e-mails on June 18, 2008):

1. Damages from the petroleum release, such as lost rental income from affected properties, must be addressed directly to Wind River. The DERR has no authority to award damages.
2. Paragraph 4(B) of the CAP Requirements Letter requires that Wind River either pay for power to operate the sub-slab ventilation systems or obtain a separate power drop.
3. Paragraph 1(A)(iv) of the CAP Requirements Letter requires Wind River to repair your basement door and landscaping damaged during investigation and construction of the remediation systems, and dispose of insulation bags.
4. Paragraph 2 of the CAP Requirements Letter requires Wind River to continue indoor air monitoring in order to verify that abatement and corrective action measures effectively maintain air quality in these homes.

Response to Diana Major Spencer Comment received June 19, 2008:

The DERR recognizes the magnitude of the Gunnison petroleum release and the unfortunate impact it has had on the citizens of Gunnison. While releases of this size have occurred in Utah before, few of them have directly impacted as many citizens as this release. The petroleum contamination must be addressed through scientifically feasible, and tested investigation and remediation methods—which is the purpose of the CAP. The DERR's task is to oversee Wind River's investigation and remediation of the release until it is cleaned up to DERR Cleanup Standards. The CAP is one of the steps toward that goal.

1. Paragraph 8 of the CAP Requirements Letter requires Wind River to propose a plan to mitigate vapors within the Casino Star Theater and must detail efforts to mitigate

damages to the historic building. Once the DERR receives the plan, it will be forwarded to the Utah State Historic Preservation Officer for comments.

2. Paragraph 1(A)(v) of the CAP Requirements Letter requires Wind River to remove the unused vent stack and to propose a plan to mitigate damages to the theater in a manner that is consistent with its designation as a historic building. Once the DERR receives the plan, it will be forwarded to the Utah State Historic Preservation Officer for comments.
3. Please see response to Paragraph 1, above. The DERR believes that communication is an important part of the corrective action process. Though the DERR cannot compel participation, representatives from the DERR are always willing to attend meetings with interested parties.
4. Please see response to Paragraph 1, above.
5. Paragraph 1(B) of the CAP Requirements Letter requires Wind River to restore damage to Main Street caused by construction activities during investigation and remediation system installation.
6. State laws require submission of a single CAP. However, that plan may contain multiple components to address varied needs.

Response to Elise Bown Comment dated June 16, 2008, and received June 19, 2008:

1. Air and groundwater monitoring will be conducted as outlined in the CAP to monitor the progress of the cleanup. Paragraphs 2 and 3 of the CAP Requirements Letter also outline additional requirements for sampling air, groundwater, and soil. In the future, as DERR Cleanup Standards are achieved, property owners may request that the DERR issue a letter specific to their property. However, the petroleum release will not be closed out until DERR Cleanup Standards are met across the entire release area.
2. There are no provisions in the statute or regulations providing for a per diem for people displaced from their homes. Utah Code Ann. 19-6-402(8)(g) provides that the CAP may include provisions for temporary or permanent relocation of persons whose dwellings have been determined by the DERR to be no longer habitable due to the release. Paragraph 7 of the CAP Requirements Letter requires Wind River to address one residence that may no longer be habitable due to the petroleum release. If the DERR becomes aware of information indicating that temporary or permanent housing is necessary because other homes are not habitable, Wind River will be required to supplement its CAP to provide temporary or permanent housing. Past housing costs and other costs related to damages caused by the petroleum release are damage claims that must be addressed directly to Wind River. The DERR has no authority to award damages.

3. Paragraph 1 of the CAP Requirements Letter requires Wind River to restore both private and public property damaged during investigation and remediation construction work. Devaluation of property must be addressed directly to Wind River.
4. The DERR understands citizen concerns about long-term health issues relating to the petroleum release. Stringent and conservative cleanup standards have been established for soil and groundwater, and will be established for indoor air, to safeguard human health and the environment. However, compensation for any future health issues must be addressed directly to Wind River.
5. Please see response to Paragraph 3, above, regarding restoration of property. Paragraph 1(C)(i) reminds Wind River that it is not excused from complying with any local ordinance regarding upkeep of its Gunnison Top Stop property.
6. Paragraph 6 of the CAP Requirements Letter requires Wind River to propose a plan to evaluate the effect of the petroleum release on utilities and monitor utilities for impacts.

Response to Marlo and Jeremy Taylor Comment dated June 18, 2008, and received June 19, 2008:

The DERR recognizes that your family has been uniquely impacted due to the petroleum release.

1. Paragraph 7 of the CAP Requirements Letter addresses your housing situation directly and requires Wind River to provide immediate temporary relocation, and to mitigate vapors in your home by September 21, 2008. If vapors in your home cannot be mitigated, the DERR may make a determination that your home is not habitable and may require Wind River to provide permanent housing for you and your family.
2. The DERR does not have any authority to change property valuations for tax purposes. Property owners are encouraged to work through property tax issues with the county and local officials.
3. Paragraph 4 of the CAP Requirements Letter requires Wind River to provide a plan to operate and maintain all remediation systems they have installed, including providing contact information on the remediation systems so that residents can notify Wasatch Environmental when the remediation systems go down. In addition to what the DERR has required, Wasatch Environmental has informed the DERR that they are testing a device that will automatically restart the remediation systems when the shut down is due to a power failure or “bump.”
4. Paragraph 1 of the CAP Requirements Letter requires Wind River to restore property damaged during construction activities. In addition, the DERR remains committed to insuring that Wind River continues with their cleanup efforts until the appropriate

cleanup standards are met. However, other damages related to the petroleum release may need to be addressed directly to Wind River. The DERR has no authority to award damages.

Response to Tami Hansen Comment received June 19, 2008:

1. Paragraph 1(A)(vi) of the CAP Requirements Letter requires Wind River to repair sprinklers and replace landscaping on your property damaged during investigation and remediation construction activities.

Response to Rodney Taylor Comment dated and received June 19, 2008:

1. Paragraph 1(B) of the CAP Requirements Letter requires Wind River to restore damage done to Main Street during investigation and remediation construction activities.
2. The maps submitted by Wind River were drawn using available soil vapor data. Even though soil vapor was not observed in the borings near the middle of the block on 100 South, Wind River will need to demonstrate remediation system coverage for this area because vapors were detected within the homes along the south side of 100 South Street. Additional sampling is required in Paragraph 3 of the CAP Requirements Letter. This additional information may affect the data interpretation and mapping on the southern end of the plume.
3. Paragraph 1 of the CAP Requirements Letter requires Wind River to address damages to property during investigation and remediation construction activities.
4. Paragraph 2 of the CAP Requirements Letter requires Wind River to implement a plan (once approved by the DERR) for indoor air monitoring, as well as a protocol for responding to reports of vapors. Paragraph 1(C) specifically addresses your concern regarding the Gunnison City Fire Department.
5. Paragraph 5(A) requires Wind River to work with the City of Gunnison to obtain the necessary permits.
6. Paragraph 6 of the CAP Requirements Letter requires Wind River to propose a plan to evaluate the effect of the petroleum release on utilities and monitor utilities for impacts.
7. Paragraphs 7 and 8 require Wind River to address the Taylor residence and the Casino Star Theatre. The ongoing indoor air monitoring required in Paragraph 2 will provide a basis to evaluate other businesses and residences affected by this release.

Response to Dwight Inouye Comment dated and received June 19, 2008:

The DERR understands that the Gunnison City residents affected by the petroleum release have many unanswered questions as they look to resolve individual impacts from the contamination. The DERR does not have authority to resolve every problem resulting from the petroleum release. However, the DERR will act within the statutory and regulatory framework to compel Wind River to investigate and remediate the petroleum release, and to cleanup the release site to DERR Cleanup Standards. While some of the concerns brought up in your comments can be addressed in the CAP, several of them—essentially damages resulting from the petroleum release—must appropriately be addressed directly to Wind River. The DERR has no authority to award damages. The DERR begins responding to your questions regarding the CAP on page two with your concerns about the remediation system coverage.

1. Paragraph 4 of the CAP Requirements Letter requires a plan to evaluate remediation system coverage.
2. Air and groundwater monitoring will be conducted as outlined in the CAP to monitor the progress of the cleanup. Paragraphs 2 and 3 of the CAP Requirements Letter also outline additional requirements for sampling air, groundwater, and soil. Soil will also be sampled to confirm the progress of the cleanup. Prior to issuing a “No Further Action” letter, the DERR will require a confirmation sampling plan for soil, groundwater, and air. This plan will be separate from the CAP and will be proposed as periodic monitoring as results of remediation system operations indicate that the cleanup process is nearing conclusion.
3. Under the Utah UST Program, the party responsible for a petroleum release must hire an environmental consultant certified by the State of Utah as an UST Consultant. Rebecca Studenka of Wasatch Environmental is certified by the State of Utah as a Certified UST Consultant. Wasatch Environmental also employs individuals certified by the State of Utah to collect soil and groundwater samples at petroleum release sites. The DERR may also occasionally take split samples to verify results.
4. The DERR does not have the authority or the mechanisms to establish a fund for any potential future health costs for people affected by the petroleum release. However, DERR Cleanup Standards for soil and groundwater are conservative and considered to be protective of human health and the environment, and these standards must be met before the petroleum release can be closed out.
5. Paragraph 1 of the CAP Requirements Letter requires Wind River to repair damage done to private and city property during investigation and remediation construction activities.
6. Devaluation of property must be addressed directly to Wind River.

Response to Lori Nay Comment dated June 18, 2008, and received June 20, 2008 (12:14 am):

1. Top Stop Site: The condition of the Top Stop property is addressed in Paragraph 1(C) of the CAP Requirements Letter. Wind River is not excused from complying with local ordinances while conducting corrective action as well as proposing a method for noise reduction of the Catox system. The DERR oversees the investigation and remediation of the petroleum release, but that oversight does not prevent local officials from enforcing local ordinances regarding the appearance of the Top Stop property.
2. Main Street: Paragraph 1(B) of the CAP Requirements Letter requires Wind River to repair damage to landscaping and electrical lines along Main Street incurred during investigation and remediation construction activities.
3. General City Property:
 - 3.1. Paragraph 1(B)(ii) of the CAP Requirements Letter requires Wind River to evaluate the condition of roads that may have been damaged during investigation and remediation construction activities, and complete appropriate repairs.
 - 3.2. Paragraph 5 of the CAP Requirements Letter requires Wind River to obtain all necessary permits from Gunnison City, the DAQ, and any other required permits.
 - 3.3. Paragraph 6 of the CAP Requirements Letter requires Wind River to propose a plan to evaluate the effect of the petroleum release on utilities and monitor utilities for impacts.
 - 3.4. Air, soil, and groundwater monitoring will continue to be conducted as outlined in the CAP to monitor the progress of the cleanup. As additional information is collected, the DERR will require Wind River to update maps and depictions of the plume. The DERR will continue to carefully review new information as it is submitted.
 - 3.5. Paragraphs 7 and 8 of the CAP Requirements Letter require Wind River to address the Taylor residence and Casino Star Theater. Air quality within other businesses and residences within the plume area will continue to be monitored as directed in Paragraph 2 of the CAP Requirements Letter.
 - 3.6. There are no provisions in the statute or regulations providing for a per diem for people displaced from their homes. Utah Code Ann. 19-6-402(8)(g) provides that the CAP may include provisions for temporary or permanent relocation of persons whose dwellings have been determined by the DERR to be no longer habitable due to the release. Paragraph 7 of the CAP Requirements Letter requires Wind River to address one residence that may no longer be habitable due to the petroleum release. If the DERR becomes aware of information indicating that temporary or permanent housing is necessary because other homes are not

habitable, Wind River will be required to supplement its CAP to provide temporary or permanent housing. Past housing costs and other costs related to damages caused by the petroleum release are damage claims that must be addressed directly to Wind River. The DERR has no authority to award damages.

- 3.7. Paragraph 4 of the CAP Requirements Letter requires Wind River to provide a plan to operate and maintain all remediation systems they have installed, including providing contact information on the remediation systems so that residents can notify Wasatch Environmental when the remediation systems go down. In addition to what the DERR has required, Wasatch Environmental has informed the DERR that they are testing a device that will automatically restart the remediation systems when the shut down is due to a power failure or “bump.”
4. Specific Private Property Concerns: The concerns about restoration of damage done to residential property during investigation and remediation construction activities are included in the requirements detailed in Paragraph 1(A) of the CAP Requirements Letter. The Christensen home has been included on the indoor air monitoring plan referenced in Paragraph 2(A) of the CAP Requirements Letter.
 - 4.1. Paragraph 7 of the CAP Requirements Letter requires Wind River to provide immediate temporary housing for the Taylor family. In addition, Wind River is required to undertake mitigation efforts and demonstrate by September 21, 2008, that they are effective in making the home habitable.
 - 4.2. Paragraph 1(A)(vii) of the CAP Requirements Letter addresses restoration of damage caused to Rod Taylor’s property during investigation and remediation construction activities.
 - 4.3. Paragraph 1(A)(iii) of the CAP Requirements Letter addresses restoration of damage caused to Carissa Kuhni’s property during investigation and remediation construction activities.
 - 4.4. Paragraph 8 of the CAP Requirements Letter requires Wind River to propose a plan to mitigate vapors within the Casino Star Theatre and must detail efforts to mitigate damages to the historic building. Once the DERR receives the plan, it will be forwarded to the Utah State Historic Preservation Officer for comments.
5. General Concerns:
 - 5.1. Paragraph 1(B) of the CAP Requirements Letter requires Wind River to inspect trenching through the construction areas and repair as necessary.
 - 5.2. Paragraph 2 of the CAP Requirements Letter requires ongoing indoor air monitoring.

ATTACHMENT



State of Utah

Department of
Environmental Quality

Richard W. Spratt
Executive Director

DIVISION OF ENVIRONMENTAL
RESPONSE AND REMEDIATION
Brad T. Johnson
Director

JON M. HUNTSMAN, JR.
Governor

GARY HERBERT
Lieutenant Governor

Doug

ERRA-81-08

July 21, 2008

SCANNED

Craig Larson, President
Top Stop Convenience Stores
2046 East Murray-Holladay Road, Suite 200
Salt Lake City, Utah 84117

DERR 2008-003706

Re: **Final Corrective Action Plan (CAP) and Technical Specification Requirements**
Top Stop C-4, located at 15 South Main Street, Gunnison, Utah
Facility Identification No. 2000220, Release Site MHB

Dear Mr. Larsen:

The Division of Environmental Response and Remediation ("DERR") has received comments in connection with the public notification period for your "CAP Summary Letter" dated May 9, 2008. Copies of the comments received are enclosed for your review. Based on the DERR's review of the public comments, you are required to address the following in your final Corrective Action Plan ("CAP") and technical specifications:

1. In accordance with Utah Admin. Rules R311-202-1, incorporating 40 CFR § 280.66(d)(2), you must mitigate adverse consequences from cleanup activities. Remediation activities were initiated prior to the submittal of a CAP, and several site restoration tasks have not yet been completed and were identified in the comments. The following three areas of concern were identified in the comments relating to site restoration of property damaged by abatement/remediation activities:

A. Private Property Site Restoration.

- i. Kim Pickett property: repair landscaping.
- ii. Bud Peacock property: replace fence.
- iii. Carissa Kuhni property:
 - a. Remove construction debris from property as indicated in Ms. Kuhni's comments, item #3.
 - b. In order to protect Ms. Kuhni and her family, install a fence between Ms. Kuhni's yard and the remediation equipment and access, as indicated in Ms. Kuhni's comments, item #4.
 - c. Repair damage to sprinkling system and irrigation water systems.
 - d. Remove the port-a-potty from the property.

- e. Propose a plan for Thermal Oxidizer system noise reduction.
 - f. Control weeds on the Thermal Oxidizer compound and access area.
- iv. RaDene and Hal Pickett:
- a. At 36 West 100 South, repair landscaping.
 - b. At 26 West 100 South, dispose of insulation bags and repair basement door.
- v. Casino Star Theatre:
- a. Remove the unused Soil Vapor Extraction ("SVE") vent stack from the side of the building.
 - b. Repair damage done to building during installation of the SVE vent stack.
 - c. The Casino Star Theatre is on the National Register of Historic Places. Propose a plan to mitigate damages to the building specified in subparagraphs 1 and 2, above, in keeping with its designation as an historic building.
- vi. Tami Hansen property: repair sprinklers and landscaping.
- vii. Rod Taylor properties: repair damage resulting from construction, including restoring the pasture.
- viii. Nielson property: replace fence.
- ix. Frank Pike property: repair fencing, landscaping, and other damage from construction activities.

You must include a schedule to complete each of these "punch list" items in your final CAP and technical specifications.

B. Gunnison City Restoration.

- i. Main Street:
- a. Replace trees removed during abatement/remediation activities.
 - b. Repair damaged electrical and water lines.
- ii. Propose a plan to evaluate the condition of city roads and repair damage resulting from construction activities. The following areas were specifically identified:
- a. In front of Jeremy Taylor's property.
 - b. In front of Rod Taylor's property.
 - c. In front of Carissa Kuhni's property.
 - d. The alley behind the Casino Star Theatre.
- iii. Propose a plan to inspect trenching throughout the release site for settling and repair as necessary.

C. Top Stop Site:

- i. Part of a CAP is to monitor and maintain the site of the release (Utah Code Ann. § 19-6-402(8)). Several people commented on the condition and appearance of the Top Stop property. You are not excused from complying with local planning and zoning ordinances regarding your property while conducting corrective action.
- ii. Propose a plan for Catox system noise reduction.
- iii. Section 1 of Lori Nay's comments offers some potential solutions to these problems.

Although the above-listed items were identified based on work already performed, you must restore site conditions following implementation of any investigative or remedial work in the future, as well.

2. Air Sampling.

- A. Several people wanted air samples taken in particular residences or businesses. The DERR requested you to provide an air sampling plan and you submitted a draft schedule dated July 7, 2008. In the plan, you list 15 residences and 15 businesses that will be sampled on a monthly basis. You must proceed with implementation of the air sampling plan immediately upon approval. Cumulative results of the air sampling must be tabulated and submitted in the monthly report.
- B. Propose a plan to establish target indoor air quality standards.
- C. You must prepare a protocol to respond quickly to reports of vapors in buildings. Reference was made in the comments to Wind River Petroleum ("Wind River") utilizing the Gunnison City Fire Department for emergency air monitoring. If you plan on using the Gunnison City Fire Department, you must assess their training, as well as their financial and personnel resources, to respond adequately.

3. Soil and Groundwater Sampling.

- A. Install additional groundwater monitoring wells and collect soil samples in the following areas:
 - i. Southeast of the post office to define the western boundary of the plume;
 - ii. Near the southwest corner of the Gunnison Implement property to define the eastern extent of the plume; and,
 - iv. On the south side of the driveway at 255 South 100 West near the west property boundary at 100 West to define and monitor the southern extent of the plume.
- B. When drilling the proposed groundwater monitoring wells, screen each boring with a photoionization detector and obtain soil samples for laboratory analysis from each boring.

4. Remediation System Operational Issues.

- A. Provide a detailed plan in the final technical specifications for verifying system coverage throughout the plume area. Although paragraph 9 of Lance Hess' comments identifies several areas of concern, your plan must demonstrate coverage of the entire plume. This plan must also discuss potential CAP modifications that would increase system coverage.
 - B. Provide a map identifying which structures have sub-slab ventilation units. For buildings with these units, either provide a separate power drop for the ventilation unit or provide a monthly allowance to reimburse power to operate the ventilation units.
 - C. In order to obtain a more comprehensive understanding of contaminant recovery, account for all mass removal mechanisms in reporting, including all remediation and abatement systems, as well as excavated soils. In addition, verify Catox and Thermox removal estimates through flow rate and concentration calculations.
 - D. Provide a plan to operate and maintain all systems, including SVE systems, the air sparge system, and the sub-slab ventilation systems. Several people expressed concern over the systems shutting down and being off for several days. In addition to the telemetry systems discussed in the "CAP Summary Letter," attach contact information on each system.
5. Permits:
 - A. You must work with Gunnison City to obtain the local permits identified in comments provided by members of the Gunnison Remediation Oversight Board.
 - B. Obtain permits required by the Division of Air Quality.
 - C. Identify and obtain any other required permits.
6. Utilities – Propose a plan that:
 - A. Evaluates the effect of the petroleum release on utilities within the plume area.
 - B. Monitors subsurface utilities for petroleum contamination.
 - C. Includes a provision for sampling drinking water to assess whether petroleum has permeated water lines.
7. Alternative Housing: Utah Code Ann. § 19-6-402(8)(g) defines a CAP as a plan that includes provisions, among other things, for "temporary or permanent relocation, whichever is determined by the Executive Secretary to be more cost-effective, of persons whose dwellings have been determined by the Executive Secretary to be no longer habitable due to the release." The Executive Secretary is prepared to make a determination under Utah Code Ann. § 19-6-402(8)(g) that Jeremy and Marlo Taylor's home, located at 255 South 100 West, is no longer habitable due to the petroleum release, based on the time that they have been displaced and the likelihood that vapors cannot be mitigated. Within 60 days, Wind River must take necessary actions to mitigate vapors and demonstrate that the Taylor home is habitable. In the interim, Wind River must immediately provide alternative temporary relocation for the Taylors.
8. Casino Star Theatre: Propose a detailed plan to mitigate vapors in the Casino Star Theatre. The plan must detail efforts to mitigate damages to the building, which is listed in the National Registry of Historic Places.

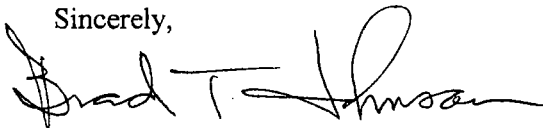
9. Potential Secondary Health Effects: Lance Hess' comments identified a concern that he calls "Burning Eye Syndrome." Evaluate the potential for these secondary health effects from the petroleum release and/or operation of the remedial systems. You may want to involve an industrial hygienist in this evaluation.

The preceding items must be incorporated in your final CAP and technical specifications, which must be submitted by September 30, 2008. However, air sampling shall be performed immediately upon the air sampling plan approval, as provided above in Paragraph 2(A), and temporary alternative housing must be provided immediately for the Taylors, as provided in Paragraph 7, above.

Other concerns were raised in the comments that do not fall under the statutory definition of investigation, abatement, or CAP requirements. However, the DERR encourages you to work with the affected community to minimize the impacts resulting from this gasoline release and ongoing remediation efforts. The DERR will be issuing a formal response to the public comments. Wind River may also wish to respond to the comments.

If you have any question regarding these requirements, please contact your DERR Project Manager, **Douglas J. Hansen**, at (801) 536-4454.

Sincerely,



Brad T Johnson, Executive Secretary (UST)
Utah Solid and Hazardous Waste Control Board

BTJ/KS/srb

Enclosure(s)

cc: Bruce Costa, E.H.S., M.S., Director, Central Utah Public Health Department
Roger Foisy, District Engineer, Utah Department of Environmental Quality
Mayor Scott R. Hermansen, Gunnison City
Les Pennington, Wasatch Environmental

TOP STOP GAS SPILL
Response to Proposed Corrective Action Plan
6/8/08

Submitted by Clair Nielson, member of the Gunnison City Remediation Oversight
Board

The gasoline spill in Gunnison has had a devastating impact on the City. It is unlikely that any other gas spill in the history of this state has had such a widespread negative effect for an entire city. The "downtown" main street part of the city has been severely impacted and the residents in a three block area have also been impacted and in some cases, displaced from their homes. The Department of Environmental Quality, Division of Environmental Response and Remediation, has a major responsibility to assure that Wind River Petroleum is held accountable to remediate/restore this community and its citizens to their former status, prior to the gasoline spill.

In order to restore the City of Gunnison and the residents of the city to their former status prior to the gasoline spill, any Corrective Action Plan should, at a minimum, address the following issues:

I.) Aesthetic Site Restoration.

Restore Gunnison city to its status prior to the gasoline spill. The clean, charming, quiet, and quaint nature of this rural community has been severely negatively impacted. Aesthetically, the beauty of this little community has been trashed. The "look and feel" of the town of Gunnison needs to be restored.

The site of the former Top Stop must blend in aesthetically with the rest of Main Street. The technique of "dig and haul" should be employed at this site to insure that all contaminated soil is removed beyond any doubt. This is a prime piece of property; it is in close proximity to the historic bank building and is a "visual anchor" to all residents and visitors as they enter the downtown area.

The trees along both sides of Main Street need to be replanted.

All affected residential and business sites need to be restored to their status prior to the spill. Many homes have lost trees and shrubs which need to be replaced. Fences that have been taken down to facilitate trenching need to

be replaced. Sprinkler systems that have been damaged and clogged with dirt and debris need to be repaired. Yards need to be leveled, graveled, re-planted etc. The look of any construction activity needs to be abated.

II.) Property Value Restoration. The residents, who have been affected by this spill, need to be assured that their property values are restored to their former level of value.

The State of Utah, through this Corrective Action Plan, must be able to demonstrate that Wind River Petroleum will be held accountable to correct the damage done. The affected residents of Gunnison must be assured that the clean up processes adopted (primarily the SVE process) will without doubt clean up and restore their property to the state it was in prior to the spill and the property will be considered cleaned up, restored and be deemed "uncontaminated".

Testing done at all sites must show conclusively that the soil is uncontaminated according to levels required by the state for all chemical compounds of gasoline.

Testing must be thorough in all areas that have been identified as having been contaminated. Additional test holes must be placed under effected homes and businesses to insure residents that their property is safe and uncontaminated. This means under foundations, cement floors etc. It must be assumed that there remain undetected "dead zones" of contamination that are yet to be discovered.

Testing must show property is uncontaminated over time. Testing over a period of several months/years must show contamination is within levels defined as uncontaminated by the state.

Testing must also show uncontaminated results while the SVE units and the pumping units currently in some homes are not running. Also, testing must show that property is uncontaminated during times when the ground water levels are fluctuating.

The ultimate goal of all of this testing will be to assure affected residents that their property is deemed safe and uncontaminated. Also, that their property values are restored to the level prior to being contaminated by the gasoline spill. Normal inflation over the period from the date of

contamination will need to be included. Wind River Petroleum must be liable for any devaluation in affected property.

III.) Restoration of Affected Citizens. The health and well being of the citizens of Gunnison who have been affected by this spill must be addressed in the corrective action plan.

Those who have been displaced from their homes must be adequately reimbursed for their cost of living while away from their homes. The state has a responsibility to require that Wind River Petroleum adequately reimburses all costs born by those affected by this spill. Costs of maintaining contaminated homes and businesses must be reimbursed. Mortgage payments, utilities, property taxes etc. all must be reimbursed. Also, costs associated with living elsewhere (per diem) etc must all be reimbursed for those who have been displaced.

No one should feel any pressure to return to a contaminated residence until the state has determined that their home is safe to inhabit. A letter of "No Further Action" must be issued for each affected residence attesting to the fact that the property/residence has passed all testing requirements established by the state. The state has a responsibility to insure that affected residents can be assured that their property is safe and that their health will not be negatively affected by returning to their homes.

IV.) Compensation for inconvenience suffered. Perhaps this is more appropriately addressed by each affected individual in lawsuits that have been filed.

V.) Compensation for negative impact to health. Also, this is more appropriately addressed in lawsuits that have been filed by each individual property owner.

VI.) Compensation for pain and suffering and emotional distress. Also, this is more appropriately addressed in lawsuits filed by each individual property owner.

June 16, 2008

Mr. Doug Hansen
Division of Environmental Response and Remediation
168 North 1950 West 1st Floor
Salt Lake City, Utah 84116

RE: Comment Letter-01: Corrective Action Plan – Gunnison Top Stop revision #6
Facility ID No: 2000220, Release Site EMHB

Dear Mr. Hansen:

In this letter, we make a series of comments on the Corrective Action Plan Summary Letter on behalf of the residents, businesses and Gunnison City. We will submit additional comments as the need arises. We call this letter Comment Letter-01.

1. **Plume Characterization:** The plume map depicts the plume splitting into two legs around 39 West 100 South. Recent, detailed reviews of our PID database shows contamination at this address. We have measured subsurface contamination as high as 410 ppm in the basement floor cracks under the home at 39 West 100 South. These data were submitted by us in January of this year. Emissions at the ventilation unit have ranged from 25 ppm to over 100 ppm during recent tests.

The City requests a re-assessment of the plume configuration at the “split” area; and a re-drawing of the plume to include 39 W and the area surrounding 39 West. The City also requests additional exploratory boreholes east of B228 (located at approximately 20 West 100 South) on 10-foot intervals until a clean borehole is reached and east of B209 (located near 29 West 100 South) on 10-foot intervals until a clean borehole is reached.

2. **Slurry Wall Vapor Barrier:** The City requests the installation of a vapor barrier wall installed into the subsurface roughly half way between Center Street and 100 South along 100 West. The vapor barrier wall should be installed in such a way so as to prevent vapor migration along the utility trench pathways. This utility trench pathway is demonstrated on one of the older, City utility aerial “blue prints” (Attachment 1).

3. **“Burning Eye Syndrome”:** Since the start of the remediation, we received a series of similar complaints, which seemed random to us at first, however, a pattern of complaints of “burning eyes”, irritated throats, irritated skin and metallic taste emerged as time progressed. We call it the ***Burning Eye Syndrome*** (Attachment 2, Burning Eye Syndrome Map).

The vacuum or negative pressure of the local ventilation units or proximal SVE units may be having a secondary, unintended effect on indoor air quality by pulling gases from indoor plumbing, especially where traps may have failed **OR** vapors may have entered the existing, operational sewer lines.

The City requests an indoor air quality study to identify potential noxious gases, which could potentially result from the anaerobic digestion of petroleum. The current analytical methodologies used thus far may not identify these gases. In the event noxious or acidic gases are detected, assessment of vapor intrusion into the sewer lines is required.

4. **Ground Water Remediation:** The CAP mentions that the sparge curtain can be expanded to “...address areas outside the present zone of influence...” (Page 8, CAP). Whereas natural attenuation is not a feasible alternative for remediation (Page 3, CAP), we support the plan to

implement proactive ground water remediation efforts. However, at what point is the ground water remediation effort expanded to cover ground water contamination through out the City? Where are the potential, stagnant zones presently? What concentrations of ground water contamination will have to persist for how long before comprehensive ground water remediation is implemented? The City requests a comprehensive ground water remediation plan that addresses, but is not limited to, the aforementioned questions.

5. Soil Vapor Extraction (SVE) Operation: The CAP Summary letter suggests that valve adjustments can be made to target specific trench locations to enhance vapor recovery (Page 8, CAP). Does this comment refer to both SVE trenches and sparge trenches?

This is important because if mass removal rates temporarily decrease, this does not mean the SVE trench is “done” or is ready to switch to activated carbon to treat offgasses. In numerous instances, buildings flood with vapors when the SVE units go down. This is the vapor rebound phenomenon. And as heavier components migrate down-gradient; this rebound effect may worsen. Water table fluctuations-whether natural or induced by the SVE units- can influence the rebound effect.

The City requests a preliminary, detailed plan to address vapor rebound in the trenches. For example, we suggest pulsing selected SVE units on and off under some planned frequency to induce vapor recovery into the trenches, especially where only a single trench is connected to the SVE. Whereas we recognize turning a valve on or off to a trench disconnects the SVE unit to that trench, we nonetheless recommend pulsing all SVE units on and off periodically to allow the monitoring of water table fluctuations, if any, in the trenches and to induce vapor rebound.

We also request a preliminary plan which would include a schedule of when valves would be turned on or off to particular trenches (as differentiated from an SVE unit turned on and off). Of course, the schedule will be fine tuned to optimize vapor recovery as more and more data come available. As trenches and SVE units are pulsed on and off, indoor air quality may temporarily deteriorate requiring additional indoor air quality monitoring.

These actions will help determine whether an SVE unit is ready to come off-line or to switch to activated carbon.

6. Water Table in SVE Trenches: We recommend dewatering some of the trenches to check the relationship between smear zone contamination and SVE vertical zone of influence. By lowering the water table in the trenches, corresponding changes in vapor concentrations in the trenches can be measured. Dewatering the trenches as necessary can ensure the water table is not blocking access to contamination by the SVE units. The City requests a trench and aquifer dewatering plan to study the affect, if any, of the water table on the remediation systems.

7. Wells: In the CAP, it is stated that “Wells will be installed”. It does not commit to how the wells will be installed. Dug pit and trench wells are not “drilled” wells and do not represent the aquifer in the same way as a drilled well. Drilled wells represent a specific point in the ground. Water samples collected from pit or trench wells represent water that has been in the pit or trench as water will preferentially flow through the pit or trench gravels toward the casing. Perhaps some aquifer water might mix with the trench water but this still renders an incomplete, non-specific view of the plume at that locale. Also, a trench might transcend the plume boundary, and dilute contamination levels. To summarize, a ground water sample from the pit and trench wells is not representative of a specific point in the aquifer. A drilled well, by definition, does represent a specific point.

The City requests that wells be drilled using whatever drilling technology necessary to

successful penetrate the over-burden formation. The City requests the installation of a ground water well on the south side of the driveway at 255 South 100 West near the west property boundary at 100 West.

8. Target Clean-Up Levels: The City requests a specific commitment in the CAP to specify which areas of the City will achieve soil and ground water Initial Screening Levels (ISLs); and which areas will achieve Tier 1 levels. Previous documents have specified that Tier 1 levels will only be applied to the Top Stop site. Furthermore, the City requests the establishment of ambient back ground levels as target clean-up levels for soil vapor emissions. We find this reasonable as the commitment has been to return vapors in the City to ambient levels. This should also apply to the soil zone, capillary fringe, and the water table fluctuation or “smear zone” as well. This step will be important in restoring residential and business sites to a pre-spill condition.

Considering that the preferred target clean-up level for soil gas vapors is “non-detect” and ISLs for soil contamination, we request that DEQ reject Total Petroleum Hydrocarbon (TPH) Fractionation as a method of achieving site closure.

9. Zone of Influence of the SVE Systems: In the CAP it is stated that it is believed the systems provide good coverage of the plume (Page 5, CAP). Whereas we recognize that the zone of influence can be based to some extent on responses at the existing residential ventilation units and indoor air quality in certain buildings, we believe ventilation units and building responses are insufficient in number to test for complete coverage. For example, vapor build up under the Streets, if any, should be tested.

The City requests a review and study of potential stagnant zones; or zones outside of the zone of influence of the SVE trenches. The City requests the installation of several dedicated, pneumatic test points in the worst case, theoretical stagnant or dead zones.

These pneumatic test points are in addition to the proposed wells. We recognize the proposed wells may provide additional information regarding the zone of influence depending on construction. We request a commitment for 100% coverage of the plume.

Given the generally porous nature of the formation, we find this 100% coverage feasible.

Examples of these potential or theoretical stagnant zones might be located at but not limited to the following locations:

- Centerline of Main Street between the two trenches.
- Centerline of 200 South over the plume.
- Centerline of 100 South over the plume.
- Near the corner of 100 South and Main Street.
- Near the southeast corner of the post office
- One at the Southwest corner of the home at 255 South 100 West.

The City also requests a map of the zone of influence so that it can be compared with the original plume map.

10. Air Quality Decision: Whereas we recognize that Air Quality permitting is pending, we respectfully request a decision be obtained from the Division of Air Quality regarding the allowable daily and annual emission rates from not only the remediation efforts city wide but regarding emissions from the ventilation/SVE units on an individual basis as well.

11. Summa Studies: A review of our air quality database shows four (4) locales lacking in air quality data. These locales are either over the plume, in close proximity to the plume, or near preferential migration pathways and include ~ 30 South Main (“Malt Shop”), 53 South Main 65 South Main (“Nail & Hair Company”), 44 South 100 West and 76 South Main Street (“Gunnison Barber Shop”).

12. Star Theatre: The CAP obliquely refers to, we assume, the Star Theatre (CAP, Page 8, Section 2, "Contingency Plans"). It would facilitate communication if the Theatre were mentioned specifically. It is stated in the CAP that, "Should the elevated levels persist following a reasonable period of SVE system operation...", then additional actions would be taken such as SVE wells. What time frame constitutes a reasonable period of time?

Of the interested parties involved, who ultimately determines a "reasonable" period of time? What if the proposed SVE wells fail?

We request a comprehensive remediation plan for the theatre which would address these open-ended questions. Such a comprehensive plan would include a Corrective Action Plan Meeting with Top Stop, Wasatch Environmental, the State, and the Proprietors of the Theatre not unlike the Corrective Action Plan meeting that is normally held between the State, a tank owner/operator and the consultant to the tank owner/operator. We recommend this approach due to four (4) main issues which include but are not limited to the following:

- The theatre presents a large footprint over a core, concentrated section of the plume.
- The basement is situated only feet above the plume.
- The basement floor is dirt providing a large area for vapor migration.
- No other building in the City has such a large dirt area of direct migration pathway so close to the plume.

A comprehensive plan would implement increasingly aggressive remedial and vapor control strategies until such time that the issues at the theatre are resolved and the theater can re-open.

13. Total Volume Removed: It is stated in the CAP that total volumes of fuel removed cannot be calculated if activated carbon canisters are eventually used to treat the effluent gases. We understand the calculations are not as accurate as the current method used for calculating volumes removed. However, the volumes can be at least estimated. It may be possible to weigh the carbon canisters before and after use. The difference in weight approximates the mass of fuel removed, especially if a moisture trap is installed in-line and removes any water from the influent stream. The mass can be converted to gallons using average temperatures and pressures during the period in which the activated carbon was in usage. However, the adjustments or errors introduced due to changes in chemistry, temperatures and pressures are de minimis at best.

Under the Certified UST Consultant Program, DEQ commonly requires mass calculations under a variety of scenarios; therefore, the City also requests that estimates be provided regarding mass and volume removals as follows:

- Ventilation units
- the Sparge trenches since inception
- Emissions scrubbed by the carbon canisters.
- Pumped water at the storage tanks
- Excavated soils at the tank pull and the trenches (we realize that the much of the overburden soil was clean). We understand that these numbers are estimates and can be clarified as such. If necessary, include areas of uncertainty. These mass and volume results will be in addition to the monthly volume and mass removal updates.

14. 255 South 100 West: In the event interim measures fail, due to the unique construction of this home we recommend demolition of the home; and the excavation and disposal of the contaminated soils around and under the home. In the event re-construction is to take place at the same locale, then we recommend the implementation of vapor intrusion engineering controls at the newly constructed home.

15. Site Restoration: In order to help the City to recover in all aspects of existence, we ask that the former Top Stop site receive some measure of landscaping to beautify the site during remediation such as trees around the periphery of the site. We request the restoration of landscaping along Main Street to its previous condition. Additionally, some residents have asked for landscaping restoration of their properties to their original conditions. Restoration includes but is not necessarily limited to re-seeding and replanting areas as necessary and proper replacement of infrastructure. We ask for an itemized "punch-list" review of these issues and planned restorative actions.

16. Confirmation Sampling: When remediation is determined complete, we request quarterly **ground water and soil confirmation sampling** at each of the affected residents including residences over the plume as well as residences near the original plume boundaries. Soil gas vapors should be non-detect. Whereas it is our current understanding DEQ will eventually issue a Letter of No Further Action for the project as a whole, a letter of No Further Action should be issued for each residence as well.

Confirmation sampling should include shutting down ventilation units and SVE Units for 24-hours and then confirmation sampling of the indoor air of affected buildings. In general, all windows should be closed and HVAC systems operated under normal conditions in affected buildings. After the ventilation and SVE units have been off for the 24-hour period, start a 24-hour SUMMA test of the affected buildings.

Monitoring of indoor quality should continue monthly until safe levels in indoor air quality results are achieved three (3) consecutive months after vapor extraction systems have been turned off. Monitoring should continue for three (3) additional quarters prior to issuing a letter of No Further Action.

17. Permitting: As we emerge from the initial response phase of remediation into more long term phases, please ensure all requisite long term permitting is in place for all long term infrastructure, as required by Planning and Zoning.

18. Displaced Residents: As part of the Corrective Action, we request an established **Per Diem and Expense Schedule** of reimbursement for residents who cannot return to their homes. Criteria for re-habitation should be negotiated with DEQ and should be part of the re-habitation plan. The date of re-habitation would also constitute the date the Per Diem Schedule terminates. Such a schedule should be retroactive for those residents who have been displaced during the past several months but who have not received compensation according to the **Per Diem and Expense Schedule**. We anticipate the Per Diem will reflect Utah State Government rates or professional rates, whichever is greater.

19. Background Section-CAP: Finally, it may help people understand the history of remedial actions if specific dates are included as to when each SVE Unit and trench was turned on; and a list of directly affected addresses or addresses targeted for remediation.

Sincerely,

Lance Hess, P.G.

Chief Hydrogeologist

CC: Gunnison City Residents via the Environment Web Page

Gunnison City Remediation Oversight Board

Attachments: (1) Utility Pathways

(2) Burning Eye Syndrome Map

Lance later sent the following message

Doug:

Just found a typo - Error on:

Page 4; Section 11: Summa Studies: It should read, ".....five (5) locales...."

sorry for the inconvenience....I know you have your hands full,

Lance.

--

Lance Hess, P.G.

Chief Hydrogeologist

Kim Picket Comment

As an owner of property affected by the gas leak. I am very disappointed to the response. Homes we have where not able to be rented lived in or sold. We are paying FOR UTILITIES FOR THEIR EHAUST SYSTEM. They ripped up our yards and have never landscaped anything back as they promised. They have basically forgotten us. I guess once Wasatch used up all the money they quit finishing their projects. Wind River has not accepted any responsibility and has done NOTHING TO HELP THOSE IN NEED. They have said it was an accident so they have no responsibility. This has been very poorly managed from day one. The state has allowed Wind River and Wasatch to abuse the system. Many people are still out of their homes and have suffered financial difficulties with very little response or help for any state agency's. Wind River caused the problems and they need to be held reasonable to resolve them. The state needs to mandate that they take care of their duties in righting the wrongs. Step up to the plate and do your job and quit letting the big corporation get away with destroying the livelihood of so many people. Hopefully we can learn from this experience so that others will not have to go through this in the future.

To Whom It May Concern:

I am writing to comment on the old station at Gunnison what a eye sore this is to main street . I realize as a business owner myself that problems arise -but we take care of the problem and go on with life. We live and learn.I don't think Wind River is doing what they need to do to take proper action with this problem. I have around 125 employees that travel through the town of Gunnison daily and they see this also, and comment on it.

Would it look like this if it was on the Wasatch front or main street in Salt Lake City? I don't think so.

This has effected a number of business,homes, and people that are waiting for answers.

Please help this small town -with this BIG problem.

a concerned person

Kim Robinson
President
Robinson Transport Inc.

June 18, 2008
VIA FAX AND REGULAR MAIL
Brad Johnson
Doug Hansen
Utah Department of Environmental Quality
Division of Environmental Response and Remediation
168 North 1950 West, First Floor
Salt Lake City, Utah 84116
(801) 359-8853 (fax)

Re: Comments on Gunnison Top Stop Corrective Action Plan Summary Letter

Dear Messrs. Johnson and Hansen:

As you are aware, this law firm represents several individuals and businesses affected by underground storage tank leak at the C-4 Top Stop located in Gunnison, Utah (the "Gunnison Top Stop").¹ On behalf of these individuals and businesses, we submit the following comments to the Corrective Action Plan Summary Letter (the "CAP"), dated May 9, 2008, submitted by Wasatch Environmental, Inc. ("Wasatch"), and request that the Utah Department of Environmental Quality Division of Environmental Response and Remediation (the "DERR"), Wasatch, and Wind River Petroleum ("Wind River") take action in accordance with the comments herein.

COMMENT NO.1: The CAP is Based on an Inadequate Subsurface Investigation Report.

As you are aware, pursuant to 40 CFR 280.63-65, the Utah Administrative Code, and guidelines promulgated by the DERR, Wind River was required to define the nature, extent, and degree of the contamination caused by the Gunnison Top Stop Spill. To date, Wind River has submitted the following reports to the DERR: (a) Emergency Response and Vapor Abatement Report, December 10, 2007, (b) Additional Emergency Response and Subsurface Investigation Report, December 24, 2007, and (c) Subsurface Investigation Report, February 12, 2008. **Separately and collectively, these reports do not adequately define the nature, extent, and degree of the contamination. Accordingly, the CAP is flawed and cannot be approved until Wind River submits a proper Subsurface Investigation Report.** Wind River's Subsurface Investigation Report's deficiencies are outlined as follows:

1. Wind River has failed to collect representative soil samples to define the nature, extent, and degree of soil contamination. As you are aware, state and federal laws, rules, and guidelines require Wind River to collect representative environmental samples to define the nature, extent, and degree of the Gunnison Spill contamination. Utah Rules (e.g., R311-205-2) governing site assessment protocol define what constitutes an "environmental sample," and require that groundwater and soil samples be collected and analyzed in accordance with specific guidelines. Under these rules, a borehole and a PID reading - the method principally employed by Wasatch in its investigation - is not a legitimate or allowed method for taking an environmental sample. To date, based on the Subsurface Investigation Report, Wind River has conducted soil sampling in two small areas in the area known to be contaminated by the Gunnison Spill: (a) Wind River has taken approximately 12 soil samples at the Gunnison Top Stop property at 15 South Main Street; and (b) Wind River has also taken approximately 30 soil samples (from a total of 17 boreholes) along the east and west sides of Gunnison Main Street between 10 South and 80 South.² Given that the area known to be contaminated by the Gunnison Spill extends at least three city blocks beyond Main Street, **Wind River has neglected to conduct soil sampling on**

approximately 90 percent of area known to be affected by the Gunnison Spill. Wind River must be required to conduct soil sampling in an objective and systematic manner in conformance with state and federal rules and guidelines before its CAP is approved.

Wind River's borehole/PID "samplings" are not legitimate environmental samples and the DERR should not accept them as such. As you are aware, the DERR routinely requires owners and operators of leaking underground storage tanks ("LUSTs") to conduct environmental sampling in accordance with federal and state rules and guidelines; and routinely rejects subsurface investigation reports that do not include representative environmental sampling, i.e. those that are based on borehole/PID readings. As you also are aware, PID "samplings" are not accepted by the DERR because they are not reliable: (a) PID "samplings" are not reproducible,

(b) PID readings are affected by how/if the PID is calibrated, and (c) PIDs only detect a narrow spectrum of hydrocarbons - PIDs do not detect heavy or light hydrocarbons. PID samplings are incapable of defining the nature, extent, and degree of contamination of the Gunnison Spill.

2. Wind River has failed to collect representative groundwater samples.

As is the case with soil sampling, Wind River has failed to collect representative environmental samples to define the nature, extent, and degree of groundwater contamination. Wind River's groundwater sampling efforts have been focused on a small portion of the area known to be affected by the Gunnison Spill- principally between 240 South and 300 South and 30 West and 150 West. Very few, if any, groundwater samples have been collected in the area between 240 South and Center Street, which comprises most of the area known to be affected by the Gunnison Spill. Until Wind River conducts representative sampling, the nature and extent of groundwater contamination is unknown.

3. Wind River has failed to describe the extent and degree of groundwater contamination.

The LUST Subsurface Investigation Report Guide, which the DERR provided to Wind River, and with which Wind River must comply, specifically requires groundwater sampling results to include, among other things: (a) a groundwater gradient map showing groundwater elevations and flow direction, (b) a summary of the analytical results developed from laboratory analysis reports, and (c) site maps showing current chemical concentration results. **Wind River has not provided any maps or illustrations that comply with the DERR's guidelines.** Without knowing where groundwater is located or whether it is contaminated, Wind River cannot form a cogent CAP. Wind River must be required to describe the nature, extent, and degree of groundwater contamination.

4. The "Contaminant Migration Pathways" diagram is not a valid characterization of the nature, extent, and degree of the contamination.

Wind River has submitted a document titled, "Contaminant Migration Pathways" in its Subsurface Investigation Report, which purports to illustrate the Gunnison Spill contaminant plume. A form of this document also appears in the CAP. This document is not a valid characterization of the nature, extent, and degree of the Gunnison Spill contamination for at least two reasons. First, as discussed above, Wind River has not collected representative soil and groundwater samples.

Because Wind River has not collected representative samples, Wind River does not have valid data to diagram the Gunnison Spill plume.

Second, the minimal "sampling" that Wind River conducted was based on a flawed sampling bias. Wind River has not developed an organized site investigation protocol. Wind River's site investigation was conducted in response to citizen complaints. Had citizens not complained, Wind River likely would not have conducted any sort of investigation beyond Main Street and 100 South.

Citizen complaints, in large part, dictate the Contaminant Migration Pathways document. Wind River must develop and execute an organized site investigation protocol to systematically and objectively determine the nature, extent, and degree of the contamination.

5. Wind River has failed to provide a Free Product Removal Report.

Despite the fact that Wind River has encountered free product in numerous locations, Wind River has omitted a Free Product Removal Report as required by the LUST Subsurface Investigation Report Guide. Under such guide, Wind River is required, among other things, to provide (a) a site map and tables showing any information pertinent to free product quantity, thickness, type, extent and other relevant details; (b) construction details and other relevant aspects of the free product removal system such as how much was removed, the disposal location or disposal method used and current site status; and (c) sampling results. Although the February 8, 2008 Subsurface Investigation Report contains a section titled, "Free Product Removal Report," it addresses vapor removal and not free product removal. Wind River must provide a Free Product Removal Report.

6. Wind River Must Comply Completely with the LUST Subsurface Investigation Report Guide. The LUST Subsurface Investigation Report Guide plainly sets forth the elements of a subsurface investigation report. Wind River should not be allowed to disregard these important requirements - requirements designed to insure an effective CAP, and ultimately to protect the citizens of the State of Utah.

COMMENT NO.2: The CAP Does Not Properly Define the "Site." The CAP makes several references to the "Site" and the "groundwater plume." However, the CAP does not define these terms. In fact, because Wind River has failed to conduct a proper subsurface investigation, Wind River is not equipped to define these terms. Wind River must define and describe the nature, extent, and degree of the Gunnison Spill contamination.

COMMENT NO.3: The CAP Fails to Provide a Corrective Action Plan for Groundwater Remediation. Although it is a known fact that Gunnison groundwater has been contaminated, the CAP does not prescribe a plan to remediate groundwater contamination. Given that SVE Systems are ineffective in removing gasoline contamination from ground water, the CAP should not be approved until Wind River proposes a satisfactory CAP for groundwater remediation.

Although Wind River proposes to install and maintain a sparge curtain at the far boundary of the area known to be affected by the Gunnison Spill, the sparge curtain only addresses groundwater remediation at the far boundary, and not in the other locations on the area known to be affected by the Gunnison Spill.

COMMENT NO.4: The CAP is Inadequate Because the "Proposed System Coverage" is Unknown. The CAP proposes to extract the contamination in the areas known to be contaminated by the Gunnison Spill by installing four SVE horizontal treatment systems. The CAP asserts that "[i]t is believed that the systems provide good coverage of the plume with the system trench networks as presently configured." To the extent the DERR allows a CAP to be predicated on a belief, the basis for the belief should be properly set forth, i.e., the area of influence of each SVE system should be known. However, the area of influence of each SVE employed in the CAP is unknown. Assuming the plume had been properly characterized, without knowing the area of influence of each SVE, Wind River cannot intelligently plan any sort of corrective action. At best, in

its present state, the CAP proposes action on an *ad hoc* basis; this is unacceptable according to state and federal laws, rules, and guidelines. Wind River's Proposed System of Coverage must be based on a reasonable assessment of each SVE's area of influence. The CAP cannot be approved until Wind River demonstrates that each SVE's area of influence covers the contaminated area. Presently, the CAP fails to do this and therefore should not be approved.

COMMENT NO.5: The CAP Does Not Adequately Address Vapor Impacts Inside Houses and Buildings. Just as Wind River has failed to collect legitimate and representative soil and groundwater samples, Wind River has failed to collect legitimate and representative air samples inside affected buildings and houses. In the first place, no evidence or assurance has been given that Wasatch is qualified to collect air samples and conduct vapor monitoring. None of the individuals who signed the CAP are industrial hygienists or have appropriate credentials:

Troy Smith is a geologist, Les Pennington is an engineer, and Rebecca Studenka is a UST Consultant.

Second, Wind River's attempts to collect air samples have been sporadic, driven by citizen complaints, and have not followed a standard and objective protocol. Before Wind River proposes to correct vapor impacts in affected houses and buildings, Wind River must properly characterize the vapor impacts. Only after Wind River understands what it is up against can Wind River propose a corrective action plan. A proper characterization of vapor impacts must include a summary of the air sampling taken to date.

Third, the CAP must detail where vapor mitigation systems have been installed and will be installed. Several residential buildings have had "positive pressure air systems" installed. However, the CAP does not provide any indication of where these systems were installed. The CAP does not give any indication of whether additional positive pressure air systems will be installed. For example, the Lila Lee Apparel has been severely impacted by vapors, but Wind River has not attempted to install a vapor mitigation system at that location.

Fourth, the CAP must give a clear indication of the effectiveness of the positive pressure systems, i.e., the area and degree of influence, and propose a plan for maintaining and monitoring these systems.

COMMENT NO.6: The CAP Does Not Adequately Address Summa Cannister Test Procedures and Schedules. The CAP states that "[i]t is proposed that monthly monitoring/sampling in homes overlying the plume be conducted on a monthly basis until samples for three consecutive months indicate that indoor air quality standards have been achieved, and thereafter reduced to quarterly monitoring." Assuming the nature, extent, and degree of the "plume" is adequately defined; the CAP should set forth in detail the buildings that will be tested and a standard and accepted protocol for conducting such tests. For example, a mere **PID** reading does not and should not constitute the proposed monitoring/sampling." The CAP should clearly define when "indoor air quality standards have been achieved." Such indoor air quality standards must be based on appropriate principles and authority. Presently, the CAP does not set forth any air quality standards.

COMMENT NO.7: The CAP Must Set Forth Air Quality Levels. The Initial Screening Levels and Tier 1 Screening Criteria do not address air quality. The CAP must incorporate similar air quality standards and be approved by the appropriate authority.

COMMENT NO.8: The CAP Must Establish a Procedure For Testing Drinking Water.

Although the source of Gunnison drinking water is unaffected by the Gunnison Spill, Gunnison drinking water lines may be permeated by gasoline and/or gasoline fumes. Although required by DERR guidelines, the Subsurface Investigation Report does not detail the precise location of drinking water or utility lines. The CAP should require Wind River to locate drinking water and utility lines, protect them, and test and monitor drinking water for gasoline components in affected areas.

COMMENT NO.9: The CAP Must Prescribe Corrective Action for Removal of Free Product.

Wind River has encountered free product in several locations within the area known to be affected by the Gunnison Spill. However, no plan or effort has been made to extract free product from the soil and groundwater of Gunnison. The CAP must address free product removal.

In sum, we are concerned with the adequacy of Wind River's CAP and subsurface investigation. The Gunnison Spill is one of the largest in the history of this State. The Gunnison Spill has directly and negatively impacted nearly 100 Gunnison citizens. Several of our clients have been forced to put their lives on hold because of the contamination on their properties.

Gunnison citizens will be forced to address and deal with the Gunnison Spill contamination for years, and perhaps even decades. Given the magnitude and seriousness of the Gunnison Spill, it is vital that the DERR fulfills its responsibilities to the citizens of the State of Utah, and in particular, to citizens of Gunnison. Federal and state laws, rules, and guidelines provide a clear procedure and a powerful mechanism to insure that owners and operators of leaking underground storage tanks -like Wind River - take responsibility for their actions and not leave the citizens of this State to suffer the ill and debilitating effects of careless and irresponsible actions. Above all, we request the DERR to protect the citizens of the State of Utah and strictly enforce these laws.

Thank you for considering our comments and for your efforts in addressing the Gunnison Spill. In considering amendments and additions to the CAP, we invite you to discuss these comments and issues with us in greater detail. In the event that you reject our comments, we request that you notify us of your decision and provide an explanation of the same.

Sincerely,

Jared L. Inouye

The law firm of Bennett Tueller Johnson & Deere represents the following individuals: Adrie Ashton, Tyler Ashton, Tyanne Ashton, Italia Ashton, Lila Lee Christensen, The Lila Lee Apparel, Kelly Patrick Fewkes, Erin Elizabeth Fewkes, Mitchell Hansen, Tarni Hansen, Samuel Hansen, Jake Hansen, Cassie Hansen, Frank Johansen, Stacey Johansen, J. Randal Larson, LanaLarson, Kim Pickett, Hal Pickett, Radene Pickett, Kaye Pickett, Brian Jensen, Michele Jensen, Carl Whitlock, Gunnison Valley Realty, Frank Pike, Jansen Pike, Steven Willden, Cindy Willden, Lotsa Motsa, Kelcey Bartholomew, and Greg Bartholomew.

2 Most of these soil samples were taken at a level several feet above the "hard pan" where the gasoline has collected and therefore are not representative of the nature, extent, and degree of contamination in the area in which such samples were taken. A list of the samples taken and the depth at which they were taken is attached hereto as Attachment A.

Carissa Kuhni Comment

Corrective Action for Carissa Kuhni

First, I would like all to know that this tragedy has affected many lives in many different ways. The emotional, physical, and most likely health issues will forever be a part of "who" we are. Are there going to be any requirements to help with those issues?

The following is a list of things that need to be complete.

- 1- I would like all contaminated dirt removed from any/all parts of my property. Not just covered up, but removed.
- 2- Permanent fencing with privacy slats completely around Catox compound that is on my property.
- 3- Remove garbage on property, including the dirt and gravel that is making the sidewalk unusable at this time.
- 4- Permanent fencing around my home property to keep children and animals protected.
- 5- Repair/Replace sprinkling and irrigation water systems for entire property. One irrigation spicket is IN the compound where I cannot access the water. This needs to be corrected.
- 6- Remove the "port-a-potty" from my property.
- 7- Noise reduction for Catox compound on my property.
- 8- Weed control on the compound, around the compound, from the back of my home to the front of the compound and along the access driveway.
- 9- Continue to monitor my home, dirt, and water for contamination levels.

Joel and Jill White Comments

The following are our comments and concerns regarding the Corrective Action Plan (CAP) for the gasoline release in Gunnison, Utah:

1. Why is it that we are paying additional money in utilities for equipment that is running that was installed in residential homes? Seems to us that Wind River should be paying the utilities. It is the least they can do is pay for the natural gas and electric bills as their equipment is using electricity and in so doing is increasing the natural gas for heating the building because of the airing out of the building. It is our understanding that this equipment will be a permanent part of the house. Also, it seems to us Wind River should be paying rent to have their equipment on our property and in the house. This is not occurring.
2. If the suma monitoring is being done on a regular basis, our property has been missed (The White Trust home). We think that even if the suma canister results are coming back pretty good there should be continued monitoring especially for houses that have been affected. Have this monitoring go on for at least 1 year. Also, let the resident or owners know what the readings are. Communicate. This hasn't been done very well in our opinion. Testing has been done, but the property owners have not been told what the results are. Many questions have been asked by the property owners and I think that the communication has been poor at best. This is not the first gasoline event in the world. There should be communication right away. This can dispel mistrust as well as other misunderstandings.
3. We feel that the way this whole thing has been handled has been very poor. The property owners shouldn't have to complain and complain in order to have someone come and check things out. It seems to us that Wasatch should have gone out in more of an exploratory mode to find where the plume really is instead of just go to the houses where the property owners are complaining. This is poor business practice and just bad handling of a situation in our opinion.
4. Why aren't there access agreements with the property owners for access to have all the equipment on the property and to go into the property to check it to be sure it is working? This should have been done first. This would be good business practice. We didn't purchase community property.

5. The State should be more proactive in being sure companies follow the guidelines. They are there for a reason. We understand that Wind River was given extensions and have a record of having gasoline releases. If this is true, why were there any extensions?

6. Hmm, this whole thing was probably going on for some time for it to go into the residential area of Gunnison as much as it did. Also see attached letter from Lance Hess dated 2/1/08. Other owners of gasoline stations that we have talked to say that there are really very strict State guidelines and that they (Wind River) had to have known there was a problem. What happened here? The million dollar fund is tax payer's money is Wind River going to reimburse fund? We think that Wind River should reimburse the fund. Also, we find it very interesting that Wasatch stopped working except to check their equipment very shortly after the million dollars were exhausted. Why is that?

7. The bottom line is that if this company (Wind River) had been honest in their dealings with the general public and their business affairs. This would not have occurred in the extent that it did. They would have gotten right on it when they noticed differences in numbers and fixed the problem. The company (Wind River) would find that they could be cost effective by being honest in their dealing with the public and in every area of business. Honesty IS the best policy!!!

8. We as residents and property owners have been treated poorly at best. Our words have been discounted every time.

9. The conclusion we have come to is that Wind River and Wasatch, who is paid by Wind River and not the State of Utah, are doing all they can to cover up and make the residents, property & business owners responsible for this!! Why? We do not own "Top Stop," Wind River Petroleum Keith Christensen & Craig Larson do. Are political strings being pulled? We know Mr. Christensen has run for Salt Lake City Mayor before, does he know some people in the State Government that are covering for him?

To give a picture of this in one's mind of what has happened to Gunnison is as follows:

Wind River Petroleum has cut a 10 inch long 1 inch deep gash in your leg. And not just a cut, but has injected chemicals into the gash. These chemicals have gone into your bones and now you have a bone disease that they are trying to fix, not cure, from the outside applying bandages no stitches. You will always hurt and never be able to do sports like you used to even golfing hurts. You will never be able to walk the same again because of what happened to your leg!!!

Because of how they are proposing to clean it up you will have a bad bad scar and it will take longer to try to heal, but it will never heal or be the same!! Nothing ever heals correctly unless it is done right. And this is far from being done (cleaned up) the right way!! Several petroleum experts have indicated that we are "getting screwed" Wind River knew what was happening.

Joel White and Jill White, co-trustees of the White Trust home and property in Gunnison, Utah

RaDene Pickett comment

Dear Doug

I have sent two e-mails today to your address and neither were able to be sent so I am trying again on my own yahoo to see if I can get through to you.

We are owners of two rental homes effected by the Top Stop gas leak. We have not rented the homes since December 2007, so there has been no income from these two homes. They were our retirement security and now there is no income. We are paying for the utility bills for the exhaust systems in both homes. One home has the yard dug up and has not been repaired and the other one had installation wrappers left and a whole in the basement door. This month we let someone rent one of the homes, but we are still worried if it is really safe. They say it is fine but no guarantees. We expect that things are made right.

Thanks

RaDene and Hal Pickett

Box 431

Gunnison, Utah 84634

435-528-7867

Hal Pickett Comment

This is a comment on behalf of Mr. Hal Pickett:

Mr. Pickett has expressed concern regarding the following:

- 36 West 100 South: Restoration of lawn to its previous condition where the SVE trench was installed.
- 26 West 100 South: Disposal of insulation bags in the basement.

thank you,

--

Lance Hess, P.G.

Chief Hydrogeologist

Remedy, Inc.

590 N. State Street Suite #E

Orem, UT 84057

(801) 221-0871

(801) 361-9296 (mobile)

www.remedyinc.net

Jill White Comment

The following are my comments and concerns regarding the Corrective Action Plan (CAP) for the gasoline release in Gunnison, Utah:

---1. The CAP shares that suma monitoring is being done on a regular basis. I think that even if the suma canister results are coming back pretty good there should be continued monitoring especially for houses that have been affected and those that are next to them. Have this monitoring go on for at least 1 year or longer and have the suma canisters in the homes at least every other month or more often depending on where the home is in the plume. Also, let the resident or owners know what the readings are.

Communicate. This hasn't been done very well in my opinion. Testing has been done, but the property owners have not been told what the results are. I have asked many questions and I know others have as well, but there have been little or no response. I think that the communication has been poor at best. This is not the first gasoline event in the world. There should be communication right away. This can dispel mistrust as well as other misunderstandings.

---2. I feel that the way this whole thing has been handled has been very poor. The property owners shouldn't have to complain and complain in order to have someone come and check things out. Wasatch should have gone out in more of an exploratory mode to find where the plume really is instead of just go to the houses where the property owners are complaining. This is a very poor business practice and just bad handling of a situation in my opinion.

---3. Why aren't there access agreements with the property owners for access to have all the equipment on the property and to go into the property to check the equipment. They are going through property to check equipment even though the equipment is not on the property they are going through. This would be good business practice and should be done as one of the first things I think. None of us bought community property to have people tramping in private property to see if their equipment is running! Even rent would be a good idea for the equipment and access.

---4. The State should be more proactive in being sure companies follow the guidelines. They are there for a reason. I understand that Wind River was given extensions and have a record of having gasoline releases. If this is true, why were there any extensions?

---5. Hmm, I think this whole thing was probably going on for some time for it to go into the residential area of Gunnison as much as it did. The State DEQ office was copied on a letter that was written by Lance Hess dated 2/1/08 that addressed this very thing. Other owners of gasoline stations that I have talked to say that there are really very strict State guidelines and that they think that Wind River had to have known there was a problem (I agree). What happened here? The million dollar fund is tax payer's money is Wind River going to reimburse the fund? I think that they should. Also, I find it very interesting that Wasatch stopped working except to check their equipment very shortly after the million dollars were exhausted.

---6. The bottom line is that if this Company (Wind River) had been honest in their dealings with the general public and their business affairs. This would not have occurred in the extent that it did. They would have gotten right on it when they noticed differences in numbers and fixed the problem. Wind River would find that they could be cost effective by being honest in their dealings with the public and in every area of business. Honesty **IS** the best policy.

---7. It really does appear that Wind River and Wasatch, who is paid by Wind River and not the State of Utah, are doing all they can to cover up and make the residents, property & business owners responsible for this!! Why? I don't own "Top Stop" Wind River Petroleum Keith Christensen & Craig Larson do. Are political strings being pulled? I think it is common knowledge that Mr. Christensen has run for Salt Lake

City Mayor before does he know someone or some people in the State Government that are covering for him?

I think this illustration is a good one. To give a picture of this in one's mind of what has happened to Gunnison is as follows:

Wind River Petroleum has cut a 10 inch long 1 inch deep gash in your leg. And not just a cut, but has injected chemicals into the gash. These chemicals have gone into your bones and now you have a bone disease that they are trying to fix, not cure, from the outside applying bandages no stitches. You will always hurt and never be able to do sports like you used to even golfing hurts.

You will never be able to walk the same again because of what happened to your leg!!!

Because of how they are proposing to clean it up you will have a bad bad scar and it will take longer to try to heal, but it will never heal or be the same!! Nothing ever heals correctly unless it is done right. And this is far from being done (cleaned up) the right way!! Several petroleum experts have indicated that we are "getting screwed" Wind River knew what was happening.

---I find it very unacceptable the way we have been treated by Wasatch, Wind River and the State of Utah. Things of this nature should never happen to this extent. Maybe the owners of Wind River need to live in my neighbor's home for 30 days without leaving and see how they like the results. There are families that are living in homes that are over the top of the plume. It is as though those involved are asking us as residents and property owners to just handle this and live through whatever for however long. I forgive whomever is involved with this, but that doesn't make what happened okay or right. It really does need to be taken care of in the correct and right way.

Jill White property owner in Gunnison, Utah

Commentary on CAP from Wind River

In reviewing the Corrective Action Plan submitted by Wasatch Environmental on behalf of Wind River Petroleum, I am struck by the narrow parameters of their proposed remediation. Perhaps understandably, though not particularly reasonably, their lens focuses on their own profession, with little to no respect for the “peripheral” needs of the people. Clean up the dirt, they seem to say, but to hell with the people!

My observations fall into three categories: “Respecting the Folks,” “Respecting the History,” and “Respecting the Need.” In my analysis, Wasatch Environmental and Wind River Petroleum need to broaden their horizons beyond the tainted soil to the unique needs of various aggrieved individuals and properties.

Respecting the *Folks*.

The focus of Wasatch Environmental is on “clean-up,” “extraction,” and “mitigation” of noxious and/or toxic vapors rising from the underground plume of Top Stop’s monumental leakage of gasoline under Gunnison City. Granted, Wasatch was engaged to deal with the spill itself, but as they are acting as representatives of Wind River Petroleum, their lack of reference to the needs and concerns of the people—the *folks*—who have been harmed constitutes an egregious deficiency in the Corrective Action Plan.

Nowhere in Wind River’s Corrective Action Plan is there any expression of concern for the disrupted lives of the people of Gunnison. Every sentence is about abstracts, systems, “SVEs,” “businesses and residences” by address, not by name (CAP, 5)—pointedly, not about “residents” or “people” or “folks.” Not one single sentence in the entire CAP contains a human subject or object; yet this devastating saturation of at least 1/4 of the town would be of little concern were it not for the human beings who are suffering on so many levels.

The CAP also fails to consider social and cultural values that have been compromised by Wind River’s carelessness, negligence, or bad luck. The word *inspiration* has two meanings, both of which are essential in human survival. At root, it means “breathing in,” the first half of *respiration*—utterly essential for life and health. Wasatch and Wind River appropriately consider the physical act of breathing clean air with their exclusive focus on “clean up.”

However, beyond basic breathing in and out, eating and eliminating, human life has a spiritual-communal-emotive dimension, also called *inspiration*, which is necessary for *well-being*, the proverbial partner of *health*—as in “health and well-being.” This crucial requisite of human well-being is not addressed in the CAP, but must be.

Communal *inspiration* would be greatly enhanced by attention to the blighted, treeless appearance of Main Street and the trashed yards and rights-of-way over the plume. Re-opening the historic Casino Star Theatre, which offers family films and other wholesome entertainment, would further *inspire* the people of Gunnison and contribute to their well-being, as well as saving them the escalating cost of driving to another community.

Respecting the History.

The Casino Star, listed by the National Register of Historic Places, according to the National Historic Preservation Act of 1966, has consulted with engineers and historic preservation experts regarding the “long-term best interests of the building.” We agree that Wasatch Environmental, Les Pennington and Lee Barrus are the experts on soil vapor extraction, but they must defer to historic preservation experts as to what does or does not constitute damage to historic structures. The following incidents demonstrate their uninformed, even callous, attitude toward certified historical structures and their disdain for other points of view or rights of ownership.

Wasatch has caused irreparable damage to irreplaceable historic soft-fired brick on the north side of the theatre, by drilling into the brick to attach a vertical PVC flue for the original SVE unit installed on Brett Ashton’s property adjacent to the theatre. At no time did they contact the theatre directors for permission—or even to notify us of their intentions or actions. The location of the SVE itself is not on theatre property, so no one was obliged to contact us except as a good neighbor. However, using *any* building without permission as a prop on which to hang equipment constitutes trespass, and altering a historic building demonstrates ignorance of historic preservation and the state and federal statutes that support it.

On November 28, 2007, John Lambert, internationally respected expert on historic masonry, was visiting the theatre to oversee his workers who were then removing paint from the theatre’s façade. I asked him if he’d mind cautioning the men working on the SVE about the damage they were doing to the bricks and offer them a less harmful alternative. The mortar can be repaired, he explained to them, but the bricks cannot; so drill into the mortar rather than the brick. If my memory is correct, Les Pennington and Terry Smith participated in the conversation with John.

Despite this earnest counsel, when Wasatch replaced the original SVE with a larger unit at some point during the winter, they destroyed additional bricks as they installed a larger horizontal vent along the foundation, drilling into brick rather than mortar. Don Hartley, State Architect, in a letter dated 18 March 2008, noted,

Care needs to be taken with the historic building materials, too. I observed an abandoned PVC flue from a failed ventilation attempt bolted to the soft-fired

brick on the north wall of the theater. The bricks that had bolts driven into them are now irreparably damaged without providing any benefit to the structure.

Nor, apparently did the wanton damage to the masonry benefit the extraction process Wasatch puts forth as the only satisfactory method for extraction and remediation, since it now hangs useless, superseded by a second version.

Hartley and other preservation experts also urge re-opening the theatre at the earliest possible moment. Elsewhere in his letter, which was distributed to DEQ, DERR, and Wasatch Environmental, among others, he observed,

Unoccupied buildings . . . are the most at-risk buildings because they do not receive the same maintenance and supervision as occupied buildings.

Unoccupied buildings are subject to unauthorized entry, vandalism and undetected hazards such as roof leaks or faulty HVAC equipment The longer the Casino Star Theater sits unoccupied, the greater is the risk to its long-term maintenance and preservation.

In order to re-open as quickly as possible, building engineer Scott Deakins, PE, in a letter dated 12 February 2008, proposes "a mechanical system that will *mitigate* the air contamination by hydrocarbons, provide a safe breathing zone in the occupied areas, fit within the property lines and preserve the historical nature of the project" (emphasis mine). Rapid air-exchange and positive pressure relative to the basement are necessitated by the vapors in the basement, which may not be entirely *extracted* for five to ten years, but can be *mitigated* almost immediately.

Respecting the Need.

In the case of the Casino Star Theatre, among a number of damages, our greatest is forced closure, which negatively affects the community at large, as the city's only source of public entertainment stands dark. "The first priority as treatment systems were being installed," writes Wasatch on page 5 of the CAP, "was to mitigate gasoline vapors inside affected businesses and residences." Yet after a lengthy discussion and analysis of "Corrective Action Alternatives" (CAP 2-5), Wasatch concludes that "SVE systems are the only feasible alternative to extract vapors in the vadose . . . zone." The underlying assumption is that *extracting* vapors is the only way to *mitigate* them, the term used later on the same page. Wind River fails to look beyond "extraction" parameters to other "mitigation" possibilities, such as Scott Deakins' proposal of a *mitigating* air system.

Wind River's attorney, Paul Drecksell, was quoted in the June 3, 2008, *Deseret News* as saying, "We have a concern that some of the other plaintiffs will make a claim down the road that we didn't clean the leak as quickly as we should have." Drecksell

and his clients need to know that immediate *mitigation* compellingly surpasses long-term *extraction* as a remedy that addresses the appropriateness of restoring to the folks of Gunnison their "show house" at the earliest possible moment. The Casino Star Theatre must immediately be restored to its pre-Top Stop status: OPEN and FUNCTIONING. Wind River's CAP limits itself to vapor extraction, to the detriment of aesthetic, economic, and communal concerns. Five to ten years of "clean-up" cannot compensate for destroying a city's collective self-esteem. With safety and functionality restored, Gunnison can begin to recover its optimism.

Given these observations, the Casino Star Theatre Foundation respectfully requests some additions to Wind River's Corrective Action Plan:

1. Since Wasatch Environmental's initial efforts were funded by a Utah State agency, we ask that, according to Section 9-8-404 of the Utah Code Annotated, the overseeing agency (DEQ), along with Wasatch Environmental and Wind River Petroleum, belatedly consult with the Utah State Historic Preservation Officer to evaluate the comparative effects of *extraction* and *mitigation* on the historic site.
2. Since the vertical flue from the original SVE is useless, unseemly, and unsightly, we request that Wasatch Environmental arrange to remove it under the supervision of our experts in historic masonry or historic architecture.
3. Since Wasatch Environmental and Wind River Petroleum have repeatedly refused to discuss *mitigation* possibilities with historical and mechanical experts and falsely accused us of denying access to the theatre when all we ask is compliance with state and federal acts, we ask that such a meeting be scheduled at the earliest opportunity.
4. Since safe and timely re-opening of the Casino Star Theatre to its audience is of greater urgency than extracting every last vapor from the tainted soil beneath the building, we ask that Wasatch Environmental and Wind River Petroleum re-focus their attention on the theatre to *immediately restoring our ability to provide our services safely*, rather than further applying inch-meal band-aid remedies in perpetuity. Appropriate remedies must be within the code requirements for Group A-1 occupancy, based on the International Building Code, which rating has the most stringent set of requirements for air quality.
5. Since the failure at Top Stop is directly responsible for the appearance of blight on Gunnison's Main Street and the lack of local popular entertainment, we request that Wind River voluntarily restore Main Street landscaping and enable the immediate re-opening of the Casino Star Theatre.
6. Since the needs of different properties and different people actually differ, we ask that Wasatch Environmental and Wind River Petroleum develop Corrective Action

plans for each family and property adversely affected. For example, the structural characteristics of Jeremy Taylor's home differ significantly from the historic nature of the Casino Star Theatre; Carissa Kuhni's double use of home as workplace differ from Hal Pickett's unoccupied rental houses; Lila Lee's combination of seasonal fashions markets and marketing lead times make it impossible for her to resume her business; and on and on. One size does not fit all. Please, Wasatch; please, Wind River, respect the differences among us and address our needs accordingly.

Respectfully submitted,

Diana Major Spencer, Ph.D., Director
Casino Star Theatre Foundation

Gunnison Gas Spill Response
6/16/08

The recent events in Gunnison, Utah, have had life-changing results for those who have chosen to make this pleasant, rural valley their home. It is tragic that for many who enjoy scenic small-town America, and the lure of a slower paced life-style, now have been severely victimized in so many ways by this devastating fuel spill. Wind River Petroleum holds the responsibility for this extreme event squarely on their shoulders. The citizens of Gunnison deserve reparations to be made in every aspect that has been so harshly pressed upon us. The great state of Utah now also has the weighty duty to hold WRP accountable to this same restitution. The fact that Gunnison is a pleasant little valley opposed to a large urban metropolis should have absolutely no bearing on this case. Citizens here unequivocally deserve an efficient and comprehensive response to the disruption and hardships that are now being felt throughout our community.

FAMILIES IN CRISIS

The fuel spill in Gunnison did not happen to lists of people, it affected families that were going about their constitutionally protected lives, liberties and pursuits of happinesses! These families first need to be safe and protected from ALL environmental hazards in and around their homes. Without a doubt, sites need to be consistently tested until clean levels regularly appear for a specified time period. Contamination must be fixed both for the immediate time and in the near and far future. Property owners must have the assurance that the place they call home will not harm them or their families in any way. They also must have the confidence to sell, refinance, etc. their property without fear of retribution from lending institutions, etc. because of any actions of WRP. This may come in the form of a letter for every affected property owner stating that the site has passed each and every test required by the state.

Families also must be compensated for the time they have been forced out of their homes. A per diem figure will need to be established that fairly refunds all individuals who have been displaced, both for food and lodging. This will need to be adjusted for children also. All costs of maintaining contaminated residences must be reimbursed.

Families unequivocally deserve to have their properties fully restored to their prior status. Trees and shrubs, fences, sidewalks, sprinkling systems, etc. all must be fully fixed and/or replaced. Property values must be restored to all possible levels. It is incredibly unfair that those living in the plume have the caliber of their lives diminished through no fault of their own, and great fault of WRP.

Compensation for health issues borne because of this leakage will certainly need to be addressed.

CITIZENS IN CRISIS

Main Street in Gunnison has been destroyed as we knew it. The unique and appealing feel of our valley has been starkly impacted. Our trees are conspicuously gone. The serene feel has been replaced by unattractive fences, pipes, equipment and industrial gear. While we accept some of this as necessary to decontaminate our city, the aesthetics of our valley need to be restored. The site of the actual gas spill must be addressed with extreme techniques in order to mandate effective results. In addition, however, this property sits on an optimum piece of property on Main Street. As it sits it is an eye-sore reminding all of the devastation it has created in our city. Urgent circumstances made for quick and conditional provisions now certainly need to be reviewed and addressed. The property now must be made to fit in with our historic street, especially assuming that the directly affected site will take an extended amount of time to decontaminate. Trees must be incorporated into our Main Street, whether that be in their original spots or in a new configuration.

All precautions must be done to insure that the water system, and sewer systems where applicable, are not adversely affected. Citizens who make this their home should not have to consistently be reminded that an extreme hazard may be lurking in the center of town, if not in their own backyards. If the aesthetics are not fully rectified it lowers the property values even more of the entire city, not just the plume areas. This is absolutely unacceptable.

The Dept. of Environmental Quality and DERR now have the ultimate responsibility to the citizens of Gunnison that life will be put back to the way it was before the egregious gas leak. Wind River Petroleum must now step up to rectify the deplorable situation that they have caused. Families must be safe from all hazardous toxins released in our area. Property owners must have the assurance that all safety measures have been taken in order to buy and sell their property in an orderly fashion. Citizens must not be adversely affected by environmental problems or extreme property devaluation. And any one driving down our quaint Main Street will again comment on its charm rather than the dreadful circumstances and ugly reminders of this gasoline spill.

Sincerely,

Elise Bown
Gunnison Planning and Zoning Chairman

June 18, 2008
Doug Hansen, Project Manager
Division of Environmental Response and Remediation
168 North 1950 West, 1 Floor
Salt Lake City, UT 84116

Re: Top Stop Convenience Store / Leaking Petroleum Cleanup Project

Dear Doug:

As a concerned citizen of Gunnison City and as an affected homeowner, we would like to comment on the Public Notice in reference to the Top Stop Convenience Store – Petroleum Cleanup Project.

It was November 7, 2007, we were asked to vacate our home due to readings of gasoline within our home. We now foresee our ninth house payment and another month of utility bills coming due in the next couple of weeks, still not in our home. Due to the circumstances and lack of funding, we were forced to move in with a nearby family member.

Since November, there has been a lot of testing done in our home, none of which have come back with a benzene level which would make our home safe to return. In a recent handheld test, gasoline readings were found in two of our interior walls.

An outside source who has done research on our home provided us with the following statement, "255 South 100 West: In the event interim measures fail, due to the unique construction of this home we recommend demolition of the home; and the excavation and disposal of the contaminated soils around and under the home. The in the event re-construction is to take place at the same locale, then we recommend the implementation of vapor intrusion engineering controls at the newly construction home".

The following are a few general suggestions we see applicable for all Gunnison City businesses and homeowners affected by this underground storage tank leak:

- A proper Per Diem schedule should be in place for those displaced residents.
- Proper evaluation of property taxes needs to take place for those affected businesses and homeowners, prior to November.
- A better procedure should be set for those businesses and homes directly connected to the SVE units. In our case, there have been a couple of occasions when the power has gone out and the unit has not powered back up. In one occasion, it was several days before someone arrived to boot up the system again.
- All affected business and homeowners need to be restored to their status prior to the spill.

We hope that all parties have learned from the many challenges and hardships that the victims of this spill have dealt with and continue to deal with. Procedures should be implemented to prevent future victims of another spill from having to suffer the same challenges and hardships. We believe that Gunnison City should be restored to its pre-spill or better condition. We expect all properties to be cleaned up to a minimum of pre-spill condition.

Thank you for considering our comments. Please feel free to contact us should you have questions or further comments. Our contact numbers are 435-979-0043 (Jeremy's cell) or (435)851-2094 (Marlo's cell).

Sincerely,

Jeremy and Marlo Taylor
255 South 100 West
PO Box 1082
Gunnison, DT 84634

Tami Hansen Comment

I have absolutely no faith in Wind River's proposal. My home is one affected by the leak. In November, a trench was dug that runs horizontal across the entire back of my house (within 2' of the walls) to the adjacent lot then turns back to the Unit that sits on the back of mine and my neighbor's property. My sprinkler system was torn up, the grass ruined from the heavy equipment, and two trees were removed in the trenching process. I was assured that someone would return in the spring and "leave it better than they found it." I cannot use my front sprinklers because they are connected to the back ones. It is now June and my yard looks pathetic! As the weeds were starting to grow, I kept assuming someone would come and at least fix my sprinkler system, so I could attempt to replant the grass. I'm still waiting and shouldn't have to upfront the costs and hope for a reimbursement some day.

Please see the attached for my comments on the leak. The leak needs some major attention!! Because of its size.

Thanks, W. Joel White Land owner. Attached file couldn't be opened DJH sent a request via the e-mail address this was received from requesting the sender include comments in text of e-mail rather than as an attachment.

From: **Rodney Taylor** <taylordhorses@yahoo.com>

Date: Wed, Jun 18, 2008 at 12:26 AM

Subject: comments Top Spot Gas Spill

To: Lori Nay <lorinay@gmail.com>

The release of a large volume of gas at the Top Stop Station 15 south main in Gunnison has had a tremendous negative impact on Gunnison city and a devastating effect on persons and property in the plume area. The SVE units and Ground Water Remediation units are now in place. The trenches have been dug and equipment installed in them. This was all done in a time of urgency and emergency. It is now time that those properties that were devastated are repaired, replaced, or renewed.

1. A plan and commitment needs to be made to re-landscape Main Street.
2. The gas plume needs to be accurately mapped. There is an area in the middle of the block of 100 south that probably should be included in the plume area, also the southwest extension of the plume appears to be inaccurately mapped.
3. Affected Property owners should be contacted and indicate that Wasatch Tech. and Wind River have satisfied their commitments to them. That they have repaired or replaced those properties disturbed during the construction.
4. There has been insufficient information given with regard to clean up, air quality testing in homes and a plan for future testing. If Gunnison Fire Dept. is to be involved in this they need to have sufficient training and compensation.
5. Wind river needs to obtain permits for each of there sites. They have received a zoning and building permit for the building at aprox. 40 west 200 south. They need to receive a permit for each site from Gunnison City.
6. There is concern about the effects of gas vapor and free product on existing city utility lines. Testing needs to be done to be certain that the integrity of these lines have not or will not be affected.
7. Businesses and homes that are still unsafe to occupy need utmost attention.

Rodney Taylor
Gunnison City Zoning Administrator
Gunnison City Corrective Action committee

Dwight Inouye Comment

June 19, 2008

As I write this comment on the Corrective Action Plan for the Gunnison Top Stop Leak, I would like to preface my remarks which I think puts this matter into perspective.

I write this comment from the position of a citizen of Gunnison, from the perspective of a physician in this small rural community, from the perspective of a county commissioner who serves voluntarily on the 6-county board of health, and now as a representative on the Gunnison City CAP review committee.

For the past nine months, the people of Gunnison have been trying to understand what has actually happened to them as a result of this gasoline leak. What does a leak of 20,000 plus gallons of gasoline really mean to this small rural town? We have asked the natural questions of how did this happen? Who was responsible? How long did the leak occur? Could it have been prevented? Now, what impact will it have on us? Can it be corrected? How long will it take to make it safe to live in this impacted area? Have our property values been affected? Now we ask, how do we know when it is safe to move back into this area?

Like many natural disasters, there is a point when we try to adjust and just move on with our normal lives. Many of us are to that point now after nine months. However, there are still two or three families that dare not return to their homes. These are families with newly born infants. These are families who were exposed during pregnancies--who wondered if their babies were going to be born normal or not. There are also people who are living in their homes, unable to afford to not live in their homes, tainted or not. These people wonder if they are doing the right thing. They wonder if someday, they will come down with a blood disease such as leukemia. Only time will tell, but they are consigned to live with the worry—just as I wonder what the nuclear fallout of the 50's did to my immune system. You know, my sister actually died of leukemia in 1954.

The government denied any responsibility saying she got the disease a few months too early, but we wonder. These people in like manner are left to wonder.

What does the corrective action plan do for these people? Does it make the house payment on the dream home that they can't live in? Does it compensate for the worry about future health issues? Or if someone in this exposure area gets leukemia twenty years from now, is there a fund to take care of some of the health costs?

Do the individuals who caused this to happen have any remorse for the damage they have caused? If there is remorse, would not an apology go a long way toward correcting the damage done?

Instead we hear of court dates in 2011 to resolve some of these issues. Isn't there something extremely unfair about that kind of postponement? At this point, I begin to understand the nature of punitive action.

Therefore, I believe the CAP should include elements of strict deadlines, stringent penalties, and verifiable methods to ensure that the gasoline spill is rigorously cleaned up.

Common sense alone tells us that it is impossible to suck air through a gravel matrix 6-10 feet in the ground and expect to pull the gasoline from a saturated segment of soil 50 or more yards away. The claim that four of these units placed a block apart will cleanse the spill of gasoline from a four block area is simply ludicrous. If you believe that it will be effective, I would like to sell you a piece of property in downtown Manhattan.

As has been mentioned, random core drillings with examination of soil and water samples is essential to determine if the cleanup has succeeded. Simply analyzing an aliquot of air from one of four trenches is not proof that the cleanup has been successful.

These samplings must be done by an independent source. The fox has guarded the hen house far too long.

Should a fund be established to take care of the health costs twenty or forty years from now?

Should the CAP demand that trees be replanted to replace those that have died along main street? Should not the CAP require true restitution of all surface structures?

Should the CAP include elements of repaying the county for lost property taxes when the local valuations for property decrease? (Only a county commissioner would think of this, but it does make a point.) Property values have dropped in this whole area.

Should the CAP require that homeowners be reimbursed for the loss in value of their property?

There are many questions yet to be asked. This is a tremendously difficult task to find solutions to a very complex tragedy. As I have tried to demonstrate, there is a human element to this gas spill that is difficult to quantify and explain. It is perhaps the most important element of a corrective action plan. Consideration must be given to this element as well.

Sincerely,

Dwight Inouye M.D.

Lori Nay Comments

June 18, 2008

Mr. Doug Hansen
Division of Environmental Response and Remediation
168 North 1950 West 1st Floor
Salt Lake City, Utah 84116

RE: Comment Letter: Response to Corrective Action Plan – Gunnison Top Stop

Mr. Hansen:

As a member of the Gunnison City Council, I feel it is important in this discussion and review of Wasatch Environmental's Corrective Action Plan to remind DERR of the magnitude of the devastation that Gunnison City has suffered as a result from the gasoline spill from Top Stop and how the City will continue to feel the negative impact of this environmental disaster for years to come. It has been difficult for a small city with limited funds to handle this catastrophic event and our attempts to protect our citizens and properties have been costly. It can be argued that approximately 25% of the City's land mass has been affected. The core of our main street, the very heart of our downtown, has been severely compromised. Many of our main street businesses have been forced to close due to contamination while the rest are holding on hoping that they won't be forced to close because of their lost business. As one drives through our town, the once lively down town district has drastically changed and empty sidewalks and parking lanes are in sharp contrast to our pre-spill years. The streetscape appears maimed and desolate without our twenty-one lovely, mature trees shading the sidewalks and inviting people to stay awhile. After almost one year, the town is crippled waiting to be restored and many people and businesses are still unable to occupy their homes and buildings.

Unfortunately after having a thriving existence for most of its 150 years, our small rural city is now faced with the battle of mere survival. Imagine devastation of this magnitude happening in Salt Lake City – a quarter of its landmass tainted and its downtown district closed and landscaping leveled. I have to wonder if a greater sense of urgency and responsibility would have been employed as an initial response by your predecessor, if Gunnison had been a more convenient location or a more prominent entity.

Appropriate remediation and repair should be completed by the responsible party immediately and not placed on a long and volatile time line for a court of law to decide and enforce. There is a need for urgency in this cleanup process. Lives have been disrupted and businesses have been destroyed. Our future individually and collectively has been severely harmed. Please don't undervalue the importance of your role, as project manager, in our efforts to make a healthy and expedient recovery. Gunnison is a wonderful, vigorous and harmonious community with great aspirations for its future. This City and the individuals who have been impacted by this tragic event are more than worthy of your greatest effort in their behalf.

We ask that you require Wind River and Wasatch Environmental to immediately focus their resources into returning our City to its pre-spill CONDITION. Since the UST Funds were exhausted, no further attempts by Wind River have been made to return our streets, homes, properties, lawns, landscaping, fences, alleyways, living and breathing spaces to their former condition. After speaking with other municipalities and experts who have had experience with Wind River and Wasatch Environmental and their lack-luster restoration efforts, I have been advised to be specific and remember the words "LIKE, KIND and CONDITION". My remaining comments will focus on specific problems that I have noted and how to restore the affected area to its former CONDITION, or LIKEness (functionality or operation), or if restoration is not possible, a replacement, in KIND, should be cooperatively determined.

1. Top Stop Site: The property's current condition is unacceptable. Pictures are attached.

Problem:

1. Top Stop is non-compliant with City Zoning ordinances
 - unapproved change of use of a commercial building
 - non-permitted structures and buildings, i.e. SVE unit with piping and Trailer Unit.

Solution: Top Stop must comply with Gunnison City Zoning ordinances by meeting with the City's Planning and Zoning Committee and applying for the proper building permits and zoning permits.

2. The weeds, the unsightly, thrown-together structures, the make-shift fence and trailer all combine to make this property the most unsightly in our downtown district. It is a visual contamination to our main street and it overwhelms any beautification efforts that our town tries to achieve and is a disrespectful and painful reminder the damage we have sustained. This muddy, weedy, trashy site is unacceptable and efforts must be made to restore this once vibrant attractive corner property. The current condition of this site is in violation of City ordinances, i.e. public nuisance, weed abatement, and unsightly structures.

Possible Solutions:

- *A tall, solid, attractive fence made of vinyl or wood should be placed around the perimeter of the PROPERTY. This fence is what most City's require to surround construction sites or blighted areas and it would hide this unkempt property. With the City's sesquicentennial celebration coming up in 2009, this fence could also serve as a canvas, a place to display a large mural depicting our city's heritage. The creative use of this vertical space would help beautify the corner and main street.*
- *Landscaping is an alternative to fencing, using a very compact, raised bed of bushes and trees to create an attractive façade to the property.*

- *The City would be open to discuss other beautification and property restoration alternatives proposed by property owner.*

3. SVE unit is loud, the constant humming is obnoxious and is a noise pollutant.

Solution: Noise abatement needs to be explored and implemented to quiet the constant irritating sound.

Main Street – Center Street to First South – East & West side of Highway 89:

Problem:

1. Electrical lines were cut and removed and water lines were cut and removed in the City sidewalk. Replacement of these services was never done. It is a great obstacle for the City to no longer have water or have electrical access on the street. We need our infrastructure back!

Solution: Even though we have been unable to permanently replace our landscaping as yet, we still need to function. Our infrastructure needs to be restored immediately without cost to the City. Conduits were placed under the cement sidewalk for future restoration of those services at the time the trenches were dug. The City wants those services restored right away with access to a tap and a 4 piece electrical outlet placed under lids (valve boxes) at 4 locations on the west side of main street and 5 locations on the east side. This is one of the City's most adamant and justifiable requests and is only asking for something LIKE we had before Wasatch Environmental tore it out. Please give this request some of your greatest attention.

2. As you know, eighteen trees were removed as a result of the trench digging and soil contamination. No attempt has been made by Wind River to rectify this great loss and restore our downtown. Since a simple replacement of the dead trees was not possible because of the contamination and a choice that experts adamantly discouraged, the City felt that other landscaping options needed to be explored. The City asked Wind River to pay for the cost of consulting with a landscape design and tree expert and ultimately the cost of designing an acceptable replacement. Wind River refused. The City was forced to cover the cost of obtaining expert advice regarding the city's landscaping options.

Solution – A. Wind River needs to reimburse Gunnison City, \$2,700 for the cost of consulting with a landscaping expert for the above stated reasons. B. Wind River needs to pay for design services for the purpose of developing a new landscaping plan for main street - \$16,300. C. It is only fair that Wind River pay for new landscaping in downtown Gunnison to replace the landscaping that they destroyed. Though I think this is a fair response to our loss and one that I feel required this comment, I am resigned to the fact that Wind River will never willingly agree to a fair

compensation for the City's great loss and the courts will have to determine a fair monetary compensation.]

General City Property and concerns:

Problem –

1. City Streets in the plume area have been compromised with heavy equipment and trenching - gravel, road material and crumbling of the asphalt road edges has been sustained as a result of remediation efforts and the City asks Wind River to restore their former condition.

Solution – gravel needs to be replaced and crumbled asphalt edges must be replaced. The affected areas of concern are in front of Jeremy Taylor's, Rod Taylor's, and Carissa Kuhni's properties and in the alley behind the theatre where deep holes and missing asphalt needs immediate attention.

2. Wind River needs to obtain proper permitting for each of their sites.

Solution: Wind River needs to comply with local ordinances and receive a permit for each site from Gunnison City.

3. There is a great concern regarding the effect of gas vapor and free product on existing city utility lines and whether the integrity of those lines have been compromised.

Solution: Future testing (type of testing to be determined by DERR) needs to be conducted to ensure that the utility lines under the plume remain in good condition so that the citizens are protected from possible harm of contamination and the city is protected from the cost of replacing important infrastructure.

4. Many questions have been raised regarding the accuracy of the characterization of the plume and the spill. The City requests that great care and oversight is given to this process by DERR and that a accurate depiction of this contamination is achieved through independent methods and experts.
5. Businesses and homes that are still unsafe to occupy need utmost attention. It is vital to the recovery of our community to restore air quality to our homes and to our businesses. If this air quality cannot be achieved through soil vapor extraction methods, the City asks that other mediation methods are explored and required immediately to correct the property's contamination. If the property cannot be corrected, then a more drastic approach involving destruction and rebuilding needs to be considered. Gunnison City does not want to be left with a bunch of unoccupiable vacant buildings as a result of this event.
6. Families, individuals, and business owners that have been removed from their properties as a result of air contamination need to compensated on a per diem

basis for their loss of home and use of property. The amount of compensation can be determined by following the State's reimbursement to state employees for travel expense.

7. Long distance monitoring of the SVE units have not been successfully employed as yet. According to many local citizens, the SVE's have gone down 2 or 3 times over the past few weeks without response from Wasatch. The continuous operation of these extraction units is not reliable and a reliable monitoring system must be maintained to ensure operative status.

SPECIFIC PRIVATE PROPERTY CONCERNS – HOMES & BUSINESSES:

I will list the concerns that have been brought to my attention by the property owners and/or discovered through Remediation Oversight Board discussions.

1st South Street:

The Nielson property needs the fence replaced along the property line and air samples need to be taken to determine the safety of the home.

The Christensen home needs to be included in the plume – it has tested for air contaminants through hand-held air quality testing machines and contaminated soil samples that were obtained on site conclude that the plume exists under it. Air safety tests need to be conducted at the home and the map needs to accurately characterize the contamination on this property.

The Pike property needs to be returned to its former condition and to the specifications and satisfaction of the owner. Details such as fences, property lines, noise abatement and ground restoration, i.e. reseeded of the field between his home and the post office needs to be completed as soon as possible. Dust control and weed abatement are of concern to the City and Wasatch should defer the choice of plants for this space to Mr. Pike.

Properties considered most damaged and neglected : (not listed in any particular order)

1. Jeremy Taylor's home has not been restored to former condition, likeness, use, or function.
-due to the unique construction of this home and the unsafe conditions that persist, Wind River needs to accept responsibility and promptly follow the recommendation of the owner and experts and if needed, demolish, remove contaminated soil, and rebuild and restore a comparable home at the current locale.

-Restoration of pasture, fencing, gravel, noise abatement and visual enhancement of SVE structures should be considered and brought to a satisfactory level to the owner.

-a per diem compensation for family's removal from home is a reasonable and immediate request.

2. Rod Taylor's pasture must be promptly restored to its former condition and to the owner's satisfaction with particular care given to a respectful approach to the monitoring of ground water and additional wells and extreme care must be taken to minimize impact and satisfy owner's concerns.

3. Carissa Kuhni's Property has not been restored to former condition or likeness or use.

Requested Corrective Action:

-restore lawn, landscaping features and manicure and respectfully create a liveable and safe backyard for children, pets and adults .

-Fences need to be replaced along property lines and the irrigation line that was destroyed needs to be repaired or replaced.

-The port-a-potty that was dropped into her backyard without permission needs to get proper approval or be removed immediately – other toilet facilities cannot be dropped around town without proper permitting and land ownership.

-The SVE unit in Ms. Kuhni's backyard is particularly loud and obnoxious, hot and dangerous. Particular care must be given to keeping this machine isolated. A permanent fence that obstructs viewing this huge piece of machinery that resembles "space junk" is a reasonable request, not only for the property owners that surround this monster but also for the town folks who visit the post office daily and hear the constant high pitched irritating hum of this machine. The City requests that noise abatement efforts are of great importance for this SVE machine. Perhaps, a wall of hay bales positioned high around the unit and secured with posts would direct the sound upward and create a visual barrier that would fit in with our rural environment. A discussion with the affected property owners would be required in determining the best solution to the noise and visual contamination of their properties.

4. Casino Star Theatre:

Air quality continues to keep the theatre closed. This forced closure has had a huge impact economically and psychologically on our community. In an effort to remain more objective in my comments as a remediation board member, I will defer to Diana Spencer's comments and support her recommendations regarding the theatre. However, I do emphasize that we most importantly request that Wind River and Wasatch meet with the theatre owners and qualified experts in historical preservation and ventilation systems to determine an immediate and comprehensive solution to mitigate the contaminated air in the audience space and monetarily support that determination so that the theatre can get back in business. It is reasonable to request an immediate and aggressive response to this closure and an acceptable, complete mitigation of these contaminants is possible. If the

theatre is forced to wait for a long and lengthy battle and decision by the courts in order to have the theatre returned to a functioning and safe space, a permanent closure of a community treasure and icon is a likely outcome and a theatre which had boasted as being the longest, continually run theatre in the nation, supported by this community for 95 years, could be one of the greatest and most senseless tragedy of this catastrophe.

Please note some general concerns for all properties:

Wasatch and DERR needs to examine each trench that has been dug and determine if the trench has settled and correct that sunken ground with gravel or dirt for a level and stable surface. Aware of trench sinking behind theatre (N&S) and behind Lila Lee's (E&W), but other trenches need to be examined, too.

On-going Air quality testing is of utmost importance at all residences and businesses on the plume.

Doug, please accept that I have done the best I could with the time allowed. Please know that I have tried to be complete but believe because of my quest for more specific actions have probably overlooked problems that were worthy of comment.

In summary, please consider the overwhelming impact this catastrophe has had on our community. We ask you to give this project your utmost care and aggressively move forward to help restore our community, our homes, and our businesses to their former condition.

Signed:

Lori Nay
City Council Member
Director of Casino Star Theatre Foundation
Remediation Board Member

Gunnison, Utah. Comments may be submitted via e-mail to gunnisonleak@utah.gov, or via mail to:

Doug Hansen, Project Manager

Division of Environmental Response and Remediation

168 North 1950 West, 1 Floor, Salt Lake City, Utah 84116

The comment period is open from May 19, 2008 until June 19, 2008.

Bud Peacock Lives
Location of Property here
40 West 2nd South
Gunnison, Utah 84634
Brother of Owner

Owner of Property
Afton P. Lund
196 West Center P.O. Box 725
Gunnison, Utah 84634

Replace Fence in back
Water puddles in the middle of
the back on account of the
trenches that were made

Trees may need ~~looked at~~ Looked at
they may be dying